

A.D.1688.

1^o GUL. & MAR. c.14, 15.

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CHAPTER XIV.

AN ACT for preventing Doubts and Questions concerning the Collecting the Publique Revenue.

Rot. Parl. pt. 5.
no. 13.

FOR the preventing all Disputes and Questions concerning the collecting levying and answering of the Publique Revenue due and payable in the Raignes of the late Kings Charles the Second and James the Second whilst the better settling of the same is under the Consideration of this present Parylament Bee it enacted by the King and Queenes most excellent Majestyes by and with the advice and consent of the Lords Spirituall and Temporall and Commons in Parliament assembled and by authoritie of the same That the Subsidie of Tonnage and Poundage and other Summes of Money payable upon Merchandize Exported and Imported and the severall Impositions Duties and Charges upon Liquors Manufactures and other things and all and singular the Revenue and Revenues whatsoever except the Duties arising by Fire-hearths and Stoves other then such as are or shall be incurred at or before the five and twentyeth day of March one thousand six hundred eighty nine given granted and payable to or lawfully enjoyed by the said late Kings or either of them which remained and had continuance on the fifth day of November last and all Arreares of the same shall be raised levied collected answered and paid to their Majestyes untill the twenty fifth day of December which shall be in the yeare of our Lord one thousand six hundred eighty and nine in the same manner and forme according to such Rates and Orders and by such Rules Meanes and Wayes and under such Penalties and Forfeitures as are mentioned expressed and appointed in the Statutes made in the Raignes of the said late Kings or either of them concerning the same respectively and as by Law the same might or ought to have beene duringe the said Raignes And that all and singular Acts of Parliament made duringe the Reigns of either of the said late Kings for the granting setting raising levying collecting answering and paying the same or for preventing Frauds or Concealments or regulating Abuses therein or for the better ordering or recovering the same and all Powers Provisions Penalties Articles Clauses and Things contained in the said Acts or any of them be and are hereby continued and confirmed and shall stand and be in force and be applied practiced executed and putt in use for the raising levying collecting paying and answering the said Subsidie Summes of Money Impositions Duties and Revenues to their Majestyes according to the tenour and intent of this present Act And alsoe that an Order of the Commons in Parliament assembled made in pursuance of the Rules and Orders annexed to the Act of Parliament made in the twelfth yeare of the Raigne of the [said'] late King Charles the Second Entituled A Subsidie granted to the King of Tonnage and Poundage and other Summes of Money payable upon Merchandize Exported and Imported for setting of Officers Fees dated the seventeenth day of May one thousand six hundred sixty two and signed by Sir Edward Turner then Speaker shall be of full force and effect untill the said five and twentyeth day of December one thousand six hundred eighty nine as if the same were particularly and at large recited in this Act

All the Revenue payable to the Two late Kings shall be paid to their present Majesties till December next.

All Acts concerning the Revenue is first.

Orders about Fees continued.

Stat. 13 Car. II. c. 4.

And bee it further enacted by the authoritie aforesaid That all and every person and persons that have received or collected the said Subsidie Summes of Money Impositions Duties or any other publique Revenue or any part or parcel thereof since the said fifth day of November shall and are hereby indemnified against all persons from whome he or they levied received or collected the same to be answerable nevertheless to their Majestyes for what he or they have soe received or collected

II.
Persons who have received Subsidie indemnified, but answerable to their Majesties.

And bee it farther enacted by the authoritie aforesaid That all Seisures and Distresses made or to be made by any Officer or Officers of the Customs or Excise or any person or persons thereunto lawfully authorized and all Forfeitures and Penalties for any Offence against any Law concerning the Customs or Excise or relating to the Transportation of Woole or Importation or Exportation of Prohibited Goods incurred since the eleventh day of December and before the thirteenth day of February one thousand six hundred eighty eight shall be prosecuted and sued and all Recoveries Judgments and Proceedings thereupon shall and may be had and prosecuted as well by any Informer suing and prosecuting for the Kings and Queenes Majestyes and himselfe as by their Majestyes Attourney Generall for their Majestyes in the same manner and forme as if such Seisures Distresses and Offences had beene made and committed after the said thirteenth day of February.

III.
Seisures and Forfeitures betwixt December and February valid.

CHAPTER XV.

AN ACT for the better securing the Government by disarming Papists and reputed Papists.

Rot. Parl. pt. 5.
no. 12.

FOR the better securing of the Government against Papists and reputed Papists bee it enacted by the King and Queenes most excellent Majestyes by and with the advice and consent of the Lords Spirituall and Temporall and Commons in this present Parylament assembled and by authoritie of the same That it shall and may be lawfull for any two or more Justices of the Peace who shall know or suspect any person to be a Papist or shall be informed that any person is or is suspected to be a Papist to tender and they are hereby authorized and required forthwith to tender to such person soe knowne or suspected to be a Papist the Declaration set downe and expressed in an Act of Parylament made in the thirtieth yeare of the Raigne of the late King Charles the Second Intituled An Act for the more effectuall Preservinge the Kings Person and Government by disabling Papists from sitting in either

Two Justices of Peace may tender Declaration of 30 Car. II. to Papist, &c.

30 Car. II. st. 2.

* interlined on the Roll.

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1^o GUL. & MAR. c. 15.

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House of Parlyament to be by him made repeated and subscribed And if such person soe required shall refuse to make repeate and subscribe the said Declaration or shall not make repeate and subscribe the said Declaration or shall refuse or forbear to appeare before the said Justices for the making repeating and subscribing the said Declaration upon notice to him given or left at his usuall place of abode by any person authorized in that behalfe by Warrant under the Hands and Seales of the said two Justices such person from thenceforth shall be taken to be and is hereby declared to be lyable and subject to all and every the Penalties Forfeitures and Disabilities hereafter in this Act mentioned

Such Persons refusing.

Penalty.

II.
Justices of Peace to certify Subscribers and Refusers to the Sessions.

AND bee it hereby further enacted That the said Justices of the Peace shall certifie the Name Sirname and usuall place of abode of every person who being required shall refuse or neglect to make repeate and subscribe the said Declaration or to appeare before them for the making repeating and subscribing the said Declaration As alsoe of every person who shall make repeate and subscribe the said Declaration at the next Generall Quarter Sessions to be holden for the Shire Rideing Division or Liberty for which they shall be Justices of the Peace to be there recorded by the Clerke of the Peace or Towne-Clerke and kept amongst the Records of the said Sessions

III.
Refuser to keep no Arms.

Two Justices of Peace may seize Arms.

AND for the better securing their Majestyes Persons and Government Bee it further enacted and declared That noe Papist or reputed Papist soe refusing or making default as aforesaid shall or may have or keepe in his House or elsewhere or in the Possession of any other person to his use or at his disposition any Arms Weapons Gunpowder or Ammunition (other then such necessary Weapons as shall be allowed to him by Order of the Justices of the Peace at their Generall Quarter Sessions for the defence of his House or person) And that any two or more Justices of the Peace from time to time by Warrant under their Hands and Seales may authorize and empower any person or persons in the day time with the assistance of the Constable or his Deputy or the Tythingman or Headburrough where the Search shall be (who are hereby required to be aiding and assisting herein) to search for all Arms Weapons Gunpowder or Ammunition which shall be in the House Custodie or Possession of any such Papist or reputed Papist and seize the same for the use of their Majestyes and their Successors which said Justices of the Peace shall from time to time at the next Generall Quarter Sessions to be held for the County Rideing Division or Liberty where such Seizure shall be made deliver the said Arms Weapons Gunpowder and Ammunition in open Court for the use aforesaid

IV.
Refuser not discovering or hindering the Search for his Arms.

Imprisonment.

Penalty.

AND bee it further enacted That every Papist or reputed Papist who shall not within the space of ten dayes after such refusall or making default as aforesaid discover and deliver or cause to be delivered to some of their Majestyes Justices of the Peace all Arms Weapons Gunpowder or Ammunition whatsoever which he shall have in his House or elsewhere or which shall be in the possession of any person to his use or at his disposition or shall hinder or disturbe any person or persons authorized by Warrant under the Hands and Seales of any two Justices of the peace to search for and seize the same that every such person soe offending contrary to the Statute in this behalfe made shall be committed to the Common Gaole of the County or Place where he shall committ such Offence by Warrant under the Hands and Seals of any two Justices of the Peace there to remaine without Baile or Mainprize for the space of three months and shall alsoe forfeite and lose the said Arms and pay treble the value of them to the use of their Majestyes and their Successors to be appraized by the Justices of the Peace at the next generall Quarter Sessions to be held for the said County Rideing or Division to their Majesties and their Successors

V.
Concealing Arms.

Imprisonment.

Penalty.

AND bee it further enacted That every person who shall conceale or be privy or aiding or assisting to the concealing or who knowing thereof shall not discover or declare to some of their Majesties Justices of the Peace the Arms Weapons Gunpowder or Ammunition of any person soe refusing or making default as aforesaid or shall hinder or disturbe any person or persons authorized as aforesaid in searching for takeing and seizing the same shall be committed to the Common Gaole of the County or place where he shall committ such Offence by Warrant under the Hands and Seals of any two Justices of the Peace there to remaine without Baile or Mainprize for the space of three Months and shall alsoe forfeit and lose treble the value of the said Arms to their Majestyes and their Successors

VI.
Persons discovering Arms.

Reward.

Refusers taking the Declaration, Penalty discharged.

AND bee it further enacted That if any person or persons shall discover any concealed Arms Weapons Ammunition or Gunpowder belonging to any refusing or making default as aforesaid soe as the same may be seized as aforesaid for the use of their Majestyes and their Successors the Justices of the Peace upon delivery of the same at the generall Quarter Sessions as aforesaid shall have power and they are hereby required as a Reward for such a discovery by Order of Sessions to allow to him or them a Summe of Money amounting to the full value of the Arms Weapons Ammunition or Gunpowder soe discovered the said Summe to be assessed by the Judgment of the said Justices at their said Sessions and to be levied by distresse and sale of the Goods of the person offending against this Act rendring the Overplus which shall arise by such sale above the said summe soe allowed and above the necessary Charges of takeing such distresse to the Owner Provided alwayes That if any person who shall have refused or made default as aforesaid shall desire to submitt and conforme and for that purpose shall present himselfe before the Justices of Peace at the Generall Quarter Sessions to be holden for the County Rideing Division or Liberty where his refuseall or making default as aforesaid shall be certified as aforesaid and shall there in open Court make repeate and subscribe the said Declaration contained in the said Act made in the said thirtyeth year of the Raigne of the said late King Charles the Second and take the severall Oathes contained in an Act made in this present Parlyament Intituled An Act for Removeing and Preventing all Questions and Disputes concerning the assembling and sitting of this present Parlyament He shall from thenceforth be discharged of and from all disabilities and forfeitures which he might or should be lyable to for the future by reason of his refusall or default as aforesaid

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1^o GUL. & MAR. c. 15—17.

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AND bee it further enacted That noe Papist or reputed Papist soe refusing or making default as aforesaid at any time after the fifteenth day of May in the yeare of our Lord one thousand six hundred eighty nine shall or may have or keepe in his owne possession or in the possession of any other person to his use or at his disposition any Horse or Horses which shall be above the value of five pounds to be sold and that any two or more Justices of the Peace from time to time by Warrant under their Hands and Seals may and shall authorize any person or persons with the assistance of the Constable or his Deputie or the Tythingman or Headburrough when the Search shall be (who are hereby required to be aiding and assisting herein) to search for and seize for the use of their Majesties and their Successors all such Horses which Horses are hereby declared to be forfeited to their Majesties and their Successors

VII.
Papists Horses
above 5^s Value
forfeited.

AND bee it further enacted That if any person shall conceale or be aiding or assisting in the concealing any such Horse or Horses belonging to any Papist or reputed soe refusing or making default as aforesaid after the said fifteenth day of May such person shall be committed to prison by such Warrant as aforesaid there to remaine without Baile or Mainprise by the space of three months and shall alsoe forfeit and lose to their Majesties and their Successors treble the value of such Horse or Horses which value is to be settled as aforesaid.

VIII.
Concealing
Papists Horses—
Penalty.

CHAPTER XVI.

AN ACT that the Simoniackall Promotion of one Person may not prejudice another.

Rot. Parl. pt. 5.
no. 13.

WHEREAS it hath often happened that persons Simoniack or Simoniackally promoted to Benefices or Ecclesiasticall Liveings have enjoyed the benefit of such Liveings many yeares and some times all their Life-time by reason of the secret carriage of such Simoniackall dealing and after the death of such Simoniack person another person innocent of such Crime and worthy of such Preferment being presented or promoted by another Patron innocent alsoe of that Simoniackall Contract have bene troubled and removed upon pretence of Lapse (or otherwise) to the prejudice of the innocent Patron in Reversion and of his Clerke whereby the Guilty goe away with profit of his Crime and the innocent succeeding Patron and his Clerke are punished contrary to all reason and good Conscience For prevention whereof Bee it enacted by the King and Queens most excellent Majesties by and with the advice and consent of the Lords Spirituall and Temporall and Cōmons in this present Parliament assembled and by the authoritie of the same That after the death of the person soe Simoniackally promoted the Offence or Contract of Simony shall neither by way of Title in Pleading or in Evidence to a Jury or otherwise hereafter be alledged or pleaded to the prejudice of any other Patron innocent of Simony or of his Clerke by him presented or promoted upon pretence of Lapse to the Crowne Metropolitan or otherwise unlesse the person Simoniack or Simoniackally presented or his Patron was convicted of such Offence at the Common Law or some Ecclesiasticall Court in the Life time of the person Simoniack or Simoniackally promoted or presented any Law or Statute to the contrary notwithstanding

Simoniackall Contract
where it shall not
prejudice.

[AND bee it alsoe provided enacted and declared by the authoritie aforesaid That noe Lease or Leases really and bona fide made or hereafter to be made by any such person as aforesaid Simoniack or Simoniackally promoted to any Deanry Prebend or Parsonage or other Ecclesiasticall Benefice or Dignity for good and valuable consideration to any Tennant or person not being privy unto or having notice of such Simony shall be impeached or avoided for or by reason of such Simony but shall be good and effectual in Law the said Simony notwithstanding.]

II.
Lease made bona
fide by Simoniack,
good.

CHAPTER XVII.

AN ACT for rectifying a Mistake in a certaine Act of this present Parliament For the amoveing Papists from the Cities of London and Westminster.

Rot. Parl. pt. 5.
no. 14.

WHEREAS in an Act of this present Parliament intituled An Act for the amoveing Papists and reputed Papists from the Cities of London and Westminster and ten miles distance from the same the County of Sussex is by mistake in the said Act inserted for the County of Essex Bee it enacted by the King and Queens most excellent Majesties with the advice and consent of the Lords Spirituall and Temporall and Commons in this present Parliament assembled and by the authoritie of the same That all and every the Powers and Authorities by the said recited Act given to the Justices of the Peace for the County of Sussex be and are hereby declared and enacted to extend to the County of Essex and the Justices of Peace of the said County of Essex and Limits thereof.

Sussex changed
into Essex.

¹ annexed to the Original Act in a separate Schedule.

Penalty.

Treasury or from the Lord Treasurer or other Superior Officers for the time being contrary to the true intent of this Act That then such Officer or Officers soe diverting or misapplying the said Money shall Forfeite the like Summe soe diverted or misapplied Which said Forfeiture shall be Recovered by Action of Debt Bill Plaint or Information in any of Their Majestyes Courts of Records at Westminster wherein noe Essoigne Protection or Wager of Law shall be allowed the one Moyety of which Forfeiture soe to be Recovered shall be to the Informer or him who shall Sue for the same the other Moyety thereof to be distributed to the Poore of the Parish where such Offence shall be committed.

LII.
The like Offence
by any Officer of
the Exchequer or
Navy;
Penalty.

AND bee it further Enacted That if any [Officer'] or Officers mentioned in this Act or in any wise belonging to the Exchequer or Navy shall willingly and wilfully offend against this Law or any Clause thereof by diverting or misapplying any part of the said Summe of Foure hundred thousand Pounds appropriated as aforesaid contrary to the true intent of this Act that for any and every such Offence such Officer and Officers soe Offending shall forfeite his Office and Place and is and are hereby disabled and made uncapeable to Hold or Execute the said Office or any other Office whatsoever for the future.

LIII.
No Stay of
Prosecution
admitted in any
Suit for Recovery
of Penalties.

PROVIDED alsoe and bee it Enacted That noe Stay of Prosecution upon any Command Warrant Motion or Order or Direction by Non vult ulterius Prosequi shall be Had Made Admitted Received or Allowed by any Court whatsoever in any Suite or Proceeding by Action of Debt Bill Plaint or Information or otherwise for the Recovery of all or any the Paines Penalties or Forfeitures upon any person or persons by this Act inflicted or therein mentioned or for or in Order to the Conviction or Disability of any person Offending against this Act.

LIV.
Commissioners
appointed to
execute Act, to
examine upon Oath
and receive the
Assessments made
in pursuance of
Act Sess. 1. c. 20.
and if they find
any Person assessed
at a lower Rate
than directed by
the said Act, to
cause such
Deficiency to
be raised.

PROVIDED alwayes and bee it Enacted That the Commissioners appointed to putt this Act in Execution shall and are hereby impowered and required within their respective Counties Divisions Cityes and Places to Examine upon Oath and [Receive'] the severall Assessments of each Parish and Place made in pursuance of the late Act Entituled An Act for a Grant to Their Majestyes of Twelve pence in the Pound for One Yeare for the necessary Defence of Their Realms And where they shall finde any Person or Place Assessed at a lower Rate or lesser Summe then was directed by the said Act to cause the Summe so omitted to be raised and paid to Their Majestyes in such manner and by such wayes and Meanes and under such Paines and Penalties as are herein before Provided and Directed for the Assessing and Levying the Summes chargeable by this present Act.

LV.
An Account to
be rendered to
the Commons of
Monies raised
under this Act.

AND it is hereby further Enacted by the Authoritie aforesaid That an Accompt shall be given and made unto the Commons in Parlyament Assembled of and for all and every Summe and Summes of Money whatsoever that shall be Collected Levyed and Paid to the Use of Their Majestyes by Vertue of this present Act of Parlyament.

CHAPTER II.

Rot. Parl. pt. 3.
nu. 1.

AN ACT declareing the Rights and Liberties of the Subject and Setleing the Succession of the Crowne.

WHEREAS the Lords Spirituall and Temporall and Comons assembled at Westminster lawfully fully and freely representing all the Estates of the People of this Realme did upon the thirteenth day of February in the yeare of our Lord one thousand six hundred eighty eight present unto their Majesties then called and known by the Names and Stile of William and Mary Prince and Princesse of Orange being present in their proper Persons a certaine Declaration in Writeing made by the said Lords and Comons in the Words following viz

The Heads of
Declaration of
Lords and
Commons, recited.

WHEREAS the late King James the Second by the Assistance of diverse evill Councillors Judges and Ministers employed by him did endeavour to subvert and extirpate the Protestant Religion and the Lawes and Liberties of this Kingdome

Dispensing and
Suspending Power.

By Assumeing and Exerciseing a Power of Dispensing with and Suspending of Lawes and the Execution of Lawes without Consent of Parlyament.

Committing
Prelates.

By Committing and Prosecuting diverse Worthy Prelates for humbly Petitioning to be excused from Concurring to the said Assumed Power.

Ecclesiastical
Commission.

By issueing and causing to be executed a Commission under the Great Seale for Erecting a Court called The Court of Commissioners for Ecclesiasticall Causes.

Levying Money.

By Levying Money for and to the Use of the Crowne by ptence of Prerogative for other time and in other manner then the same was granted by Parlyament.

Standing Army.

By raising and keeping a Standing Army within this Kingdome in time of Peace without Consent of Parlyament and Quartering Soldiers contrary to Law.

Disarming
Protestants, &c.

By causing severall good Subjects being Protestants to be disarmed at the same time when Papists were both Armed and Employed contrary to Law.

Violating
Elections.
Illegal
Prosecutions.

By Violating the Freedome of Election of Members to serve in Parlyament.
By Prosecutions in the Court of Kings Bench for Matters and Causes cognizable onely in Parlyament and by diverse other Arbitrary and Illegal Courses.

Jurics.

And whereas of late yeares Partiall Corrupt and Unqualified Persons have beene returned and served on Juryes in Tryalls and particularly diverse Jurors in Tryalls for High Treason which were not Freeholders,

And excessive Baile hath beene required of Persons committed in Criminall Cases to elude the Benefitt of the Lawes made for the Liberty of the Subjects.	Excessive Bail.
And excessive Fines have beene imposed.	Fines.
And illegall and cruell Punishments inflicted.	Punishments.
And severall Grants and Promises made of Fines and Forfeitures before any Conviction or Judgement against the Persons upon whome the same were to be levied.	Grants of Fines, &c. before Conviction, &c.
All which are utterly and directly contrary to the knowne Lawes and Statutes and Freedome of this Realme.	
And whereas the said late King James the Second haveing Abdicated the Government and the Throne being thereby Vacant His [Hignesse'] the Prince of Orange (whome it hath pleased Almighty God to make the glorious Instrument of Delivering this Kingdome from Popery and Arbitrary Power) did (by the Advice of the Lords Spirituall and Temporall and diverse principall Persons of the Commons) cause Letters to be written to the Lords Spirituall and Temporall being Protestants and other Letters to the severall Countyes Cityes Universities Burroughs and Cinque Ports for the Choosing of such Persons to represent them as were of right to be sent to Parlyament to meete and sitt at Westminster upon the two and twentyeth day of January in this Yeare one thousand six hundred eighty and eight in order to such an Establishment as that their Religion Lawes and Liberties might not againe be in danger of being Subverted, Upon which Letters Elections haveing beene accordingly made.	Recital that the late King James II. had abdicated the Government, and that the Throne was vacant, and that the Prince of Orange had written Letters to the Lords and Commons for the choosing Representatives in Parliament.
And thereupon the said Lords Spirituall and Temporall and Commons pursuant to their respective Letters and Elections being now assembled in a full and free Representative of this Nation takeing into their most serious Consideration the best meanes for attaining the Ends aforesaid Doe in the first place (as their Auncestors in like Case have usually done) for the Vindicating and Asserting their auntient Rights and Liberties, Declare	The Subject's Rights.
That the pretended Power of Suspending of Laws or the Execution of Laws by Regall Authority without Consent of Parlyament is illegall.	Dispensing Power.
That the pretended Power of Dispensing with Laws or the Execution of Laws by Regall Authoritie as it hath beene assumed and exercised of late is illegall.	Late dispensing Power.
That the Commission for erecting the late Court of Commissioners for Ecclesiasticall Causes and all other Commissions and Courts of like nature are Illegall and Pernicious.	Ecclesiasticall Courts illegal.
That levying Money for or to the Use of the Crowne by p ^t ence of Prerogative without Grant of Parlyament for longer time or in other manner then the same is or shall be granted is Illegall.	Levying Money.
That it is the Right of the Subjects to petition the King and all Commitments and Prosecutions for such Petitioning are Illegall.	Right to petition.
That the raising or keeping a standing Army within the Kingdome in time of Peace unlesse it be with Consent of Parlyament is against Law.	Standing Army.
That the Subjects which are Protestants may have Arms for their Defence suitable to their Conditions and as allowed by Law.	Subjects' Arms.
That Election of Members of Parlyament ought to be free.	Freedom of Election.
That the Freedome of Speech and Debates or Proceedings in Parlyament ought not to be impeached or questioned in any Court or Place out of Parlyament.	Freedom of Speech.
That excessive Baile ought not to be required nor excessive Fines imposed nor cruell and unusuall Punishments inflicted.	Excessive Bail.
That Jurors ought to be duely impannelled and returned and Jurors which passe upon Men in Trialls for High Treason ought to be Freeholders.	Juries.
That all Grants and Promises of Fines and Forfeitures of particular persons before Conviction are illegall and void.	Grants of Forfeitures.
And that for Redresse of all Grievances and for the amending strengthening and preserveing of the Lawes Parlyaments ought to be held frequently.	Frequent Parliaments.
And they doe Claime Demand and Insist upon all and singular the Premises as their undoubted Rights and Liberties and that noe Declarations Judgements Doeings or Proceedings to the Prejudice of the People in any of the said Premisses ought in any wise to be drawne hereafter into Consequence or Example. To which Demand of their Rights they are particularly encouraged by the Declaration of his Highnesse the Prince of Orange as being the onely meanes for obtaining a full Redresse and Remedy therein. Haveing therefore an intire Confidence That his said Highnesse the Prince of Orange will perfect the Deliverance soe farr advanced by him and will still preserve them from the Violation of their Rights which they have here asserted and from all other Attempts upon their Religion Rights and Liberties, The said Lords Spirituall and Temporall and Commons assembled at Westminster doe Resolve That William and Mary Prince and Princesse of Orange be and be declared King and Queene of England France and Ireland and the Dominions thereunto belonging to hold the Crowne and Royall Dignity of the said Kingdomes and Dominions to them the said Prince and Princesse dureing their Lives and the Life of the Survivour of them And that the sole and full Exercise of the Regall Power be onely in and executed by the said Prince of Orange in the Names of the said Prince and Princesse dureing their joynt Lives And after their Deceases the said Crowne and Royall Dignitie of the said Kingdoms and Dominions to be to the Heires of the Body of the said Princesse And for default of such Issue to the Princesse Anne of Denmarke and the Heires of her Body And for default of such Issue to the Heires of the Body of the said Prince of Orange. And the Lords Spirituall and Temporall and Commons doe pray the said Prince and (') Princesse to accept the same accordingly.	The said Rights claimed. Tender of the Crown. Regal Power exercised. Limitation of the Crown.

! Highnesse O.

* and O.

144	1 ^o GUL. & MAR. Sess. 2. c. 2.	A.D.1688.
New Oaths of Allegiance, &c.	And that the Oathes hereafter mentioned be taken by all Persons of whome the Oathes of Allegiance and Supremacy might be required by Law instead of them And that the said Oathes of Allegiance and Supremacy be abrogated.	
Allegiance.	I A B doe sincerely promise and swear That I will be faithfull and beare true Allegiance to their Majestyes King William and Queene Mary Soe helpe me God.	
Supremacy.	I A B doe swear That I doe from my Heart Abhorr, Detest and Abjure as Impious and Hereticall this damnable Doctrine and Position That Princes Excommunicated or Deprived by the Pope or any Authority of the See of Rome may be deposed or murdered by their Subjects or any other whatsoever. And I doe declare That noe Forreigne Prince Person Prelate, State or Potentate hath or ought to have any Jurisdiction Power Superiority Preeminence or Authoritie Ecclesiasticall or Spirituall within this Realme Soe helpe me God.	
Acceptance of the Crown.	Upon which their said Majestyes did accept the Crowne and Royall Dignitie of the Kingdoms of England France and Ireland and the Dominions thereunto belonging according to the Resolution and Desire of the said Lords and Commons contained in the said Declaration. And thereupon their Majestyes were pleased That the said Lords Spirituall and Temporall and Commons being the two Houses of Parlyament should continue to sitt and with their Majesties Royall Concurrence make effectuall Provision for the Settlement of the Religion Lawes and Liberties of this Kingdome soe that the same for the future might not be in danger againe of being subverted, To which the said Lords Spirituall and Temporall and Commons did agree and proceede to aēt accordingly. Now in pursuance of the Premisses the said Lords Spirituall and Temporall and Commons in Parlyament assembled for the ratifying confirming and establishing the said Declaration and the Articles Clauses Matters and Things therein contained by the Force of a Law made in due Forme by Authority of Parlyament doe pray that it may be declared and enacted That all and singular the Rights and Liberties asserted and claimed in the said Declaration are the true auntient and indubitable Rights and Liberties of the People of this Kingdome and soe shall be esteemed allowed adjudged deemed and taken to be and that all and every the particulars aforesaid shall be firmly and strictly holden and observed as they are expressed in the said Declaration And all Officers and Ministers whatsoever shall serve their Majestyes and their Successors according to the same in all times to come. And the said Lords Spirituall and Temporall and Commons seriously considering how it hath pleased Almighty God in his marvellous Providence and mercifull Goodness to this Nation to provide and preserve their said Majestyes Royall ¹ Persons most happily to Raigne over us upon the Throne of their Auncestors for which they render unto him from the bottome of their Hearts their humblest Thanks and Praises doe truely firmly assuredly and in the Sincerity of their Heartis thinke and doe hereby recognize acknowledge and declare That King James the Second haveing abdicated the Government and their Majestyes haveing accepted the Crowne and Royall Dignity [as ²] aforesaid Their said Majestyes did become were are and of right ought to be by the Lawes of this Realme our Sovereigne Liege Lord and Lady King and Queene of England France and Ireland and the Dominions thereunto belonging in and to whose Princely Persons the Royall State Crowne and Dignity of the said Realmes with all Honours Stiles Titles Regalities Prerogatives Powers Jurisdicitions and Authorities to the same belonging and appertaining are most fully rightfully and intirely invested and incorporated united and annexed And for preventing all Questions and Divisions in this Realme by reason of any pretended Titles to the Crowne and for preserving a Certainty in the Succession thereof in and upon which the Unity Peace Tranquillity and Safety of this Nation doth under God wholly consist and depend The said Lords Spirituall and Temporall and Commons doe beseech their Majestyes That it may be enacted established and declared That the Crowne and Regall Government of the said Kingdoms and Dominions with all and singular the Premisses thereunto belonging and appertaining shall bee and continue to their said Majestyes and the Survivour of them dureing their Lives and the Life of the Survivour of them And that the entire perfect and full Exercise of the Regall Power and Government be onely in and executed by his Majestie in the Names of both their Majestyes dureing their joynt Lives And after their deceases the said Crowne and Premisses shall be and remaine to the Heires of the Body of her Majestie and for default of such Issue to her Royall Highnesse the Princess Anne of Denmarke and the Heires of her Body and for default of such Issue to the Heires of the Body of his said Majestie And thereunto the said Lords Spirituall and Temporall and Commons doe in the Name of all the People aforesaid most humbly ³ and faithfully submitt themselves their Heires and Posterities for ever and doe faithfully promise That they will stand to maintaine and defend their said Majesties and alsoe the Limitation and Succession of the Crowne herein specified and contained to the utmost of their Powers with their Lives and Estates against all Persons whatsoever that shall attempt any thing to the contrary. And whereas it hath beene found by Experience that it is inconsistent with the Safety and Welfaire of this Protestant Kingdome to be governed by a Popish Prince or by any King or Queene marrying a Papist the said Lords Spirituall and Temporall and Commons doe further pray that it may be enacted That all and every person and persons that is are or shall be reconciled to or shall hold Communion with the See or Church of Rome or shall professe the Popish Religion or shall marry a Papist shall be excluded and be for ever uncapeable to inherit possesse or enjoy the Crowne and Government of this Realme and Ireland and the Dominions thereunto belonging or any part of the same or to have use or exercise any Regall Power Authoritie or Jurisdiction within the same [And in all and every such Case or Cases the People of these Realmes shall be and are hereby absolved of their Allegiance ⁴] And the said Crowne and Government shall from time to time descend to and be enjoyed by such person or persons being Protestants as should have inherited and enjoyed the same in case the said person or persons soe reconciled holding Communion or Professing or Marrying as aforesaid were naturally dead [And that every King and Queene of this Realme who at any time hereafter shall come to and succede in the Imperiall Crowne of this Kingdome shall on the first day of the meeting of the first Parlyament next after his or her	
The Two Houses to sit.		
Subjects' Liberties to be allowed,		
and Ministers hereafter to serve according to the same. William and Mary declared King and Queen.		
Limitation of the Crown.		
Papists debarred the Crown.		
Every King, &c. shall make the Declaration of 30 Car. II.		

¹ interlined on the Roll.

² annexed to the Original Aēt in a separate Schedule.

comeing to the Crowne sitting in his or her Throne in the House of Peeres in the presence of the Lords and Commons therein assembled or at his or her Coronation before such person or persons who shall administer the Coronation Oath to him or her at the time of his or her takeing the said Oath (which shall first happen) make subscribe and audibly repeate the Declaration mentioned in the Statute made in the thirtyeth yeare of the Raigne of King Charles the Second Entituled An Act for the more effectuall Preserueing the Kings Person and Government by disableing Papists from sitting in either House of Parlyament But if it shall happen that such King or Queene upon his or her Succession to the Crowne of this Realme shall be under the Age of twelve yeares then every such King or Queene shall make subscribe and audibly repeate the said Declaration at his or her Coronation or the first day of the meeting of the first Parlyament as aforesaid which shall first happen after such King or Queene shall have attained the said Age of twelve yeares.¹] All which Their Majestyes are contented and pleased shall be declared enacted and established by authoritie of this present Parliament and shall stand remaine and be the Law of this Realme for ever And the same are by their said Majesties by and with the advice and consent of the Lords Spirituall and Temporall and Commons in Parlyament assembled and by the authoritie of the same declared enacted and established accordingly

If under 12 Years
old, to be done after
Attainment thereof.

King's and Queen's
Assent.

AND bee it further declared and enacted by the Authoritie aforesaid That from and after this present Session of Parlyament noe Dispensation by Non obstante of or to any Statute or any part thereof shall be allowed but that the same shall be held void and of noe effect Except a Dispensation be allowed of in such Statute [and except in such Cases as shall be specially provided for by one or more Bill or Bills to be passed durement this present Session of Parliament.¹]

II.
Non obstantes
made void.
Exception.

PROVIDED that noe Charter or Grant or Pardon granted before the three and twentyeth Day of October in the yeare of our Lord one thousand six hundred eighty nine shall be any wayes impeached or invalidated by this Act but that the same shall be and remaine of the same force and effect in Law and noe other then as if this Act had never beene made.

III.
Proviso for
Charters, Pardons,
&c. granted
before 23d October.

CHAPTER III.

AN ACT for preventing all Doubts and Questions concerning the Collecting the Publique Revenue

Rot. Parl. pt. 3.
nu. 2.

FOR the preventing all Disputes and Questions concerning the Collecting Levying and Answering the Publique Revenue due and payable in the Raignes of the late Kings Charles the Second and James the Second whilst the better Setleing the same is under the Consideration of this present Parlyament Bee it enacted by the King and Queens most Excellent Majestyes by and with the Advice and Consent of the Lords Spirituall and Temporall and Commons in this present Parliament Assembled and by Authoritie of the same That the Subsidie of Tonnage and Poundage and other Summes of Money payable upon Merchandize Exported and Imported and the severall Impositions Duties and Charges upon Liquors Manufactures and other things And all and singular the Revenue and Revenues whatsoever (Except the Duties ariseing by Fire Hearths and Stoves other then such as were incurred at or before the Five and twentieth Day of March One thousand six hundred eighty nine) Given, Granted and Payable to or Lawfully Enjoyed by the said late Kings or either of Them which Remained and had Continuance on the Fifth Day of November One thousand six hundred eighty eight And all Arreares of the same shall be Raised Levied Collected Answered and Paid to Their Majestyes untill the Twenty fifth day of December which shall be in the yeare of our Lord One thousand six hundred and ninety in the same manner and forme according to such Rates and Orders and by such Rules Meanes and Wayes and under such Penalties and Forfeitures as are mentioned expressed and appointed in the Statutes made in the Raignes of the said late Kings or either of them concerning the same respectively and as by Law the same might or ought to have beene durement the said Raignes.

Arrears of Subsidy
and Duties,
(Exception) to be
collected and paid
until 25th Dec.
1690, as herein
mentioned.

AND that all and singular Acts of Parlyament made durement the Reigns of either [of²] the said late Kings for the Granting Setleing Raising Levying Collecting Answering and Paying the same or for pventing Fraudes or Concealments or regulateing Abuses therein or for the better Ordering or Recovering the same And all Powers Provisions Penalties Articles Clauses and things contained in the said Acts or any of them be and are hereby Continued and Confirmed and shall stand and be in force and be Applied Practiced Executed and putt in Ure for the Raising Levying Collecting Paying and Answering the said Subsidie Summes of Money Impositions Duties and Revenues to Their Majestyes according to the Tenor and Intent of this present Act And alsoe that an Order of the Commons in Parlyament Assembled made in pursuance of the Rules and Orders annexed to the Act of Parlyament made in the Twelfth yeare of the Raigne of the late King Charles the Second Entituled A Subsidie Granted to the King of Tonnage and Poundage and other Summes of Money payable upon Merchandize Exported and Imported for Setleing of Officers Fees Dated the Seventeenth day of May One thousand six hundred sixty two and Signed by Sir Edward Turner then Speaker shall be of full Force and Effect untill the said Five and twentyeth day of December One thousand six hundred and ninety as if the same were particularly and at large recited in this Act.

II.
Former Acts for
collecting, &c. the
Public Revenue, to
be in force until
the said 25th Dec.
1690;

and also an Order
of the Commons
made in pursuance
of the Rules and
Orders annexed to
Stat. 12 Car. II.
c. 4.

PROVIDED alwayes and bee it Enacted That nothing in this Act contained shall extend or be construed in any way to extend to the Confirming or Invalidating certaine Letters Patents bearing Date the Twentyeth day of February in the Second Yeare of the Raigne of the late King James the Second and Granted by the [said¹] late

III.
Proviso for Letters
Patent of the 20th
Feb. 2 Jac. II. to
Trustees for the
Prince and Princess
Anne of Denmark.

¹ annexed to the Original Act in a separate Schedule.

² interlined on the Roll.

within eight
days.

Penalty for
retaining
Public prop-
erty.

Reward for
the discov-
ery of those
who plun-
der
Gardens or
steal
Poultry.

Those in the
service of
the Com-
pany not to
leave the
Island of
Manhattan
without
leave.

or small, are warned the same to return within the space of eight days, unless they have purchased it from the former Hon^{ble} Directors, without which proof no excuse shall be admitted ; And if it be hereafter found that any one is in possession of property belonging to the Company, such shall suffer the punishment usually administered to Thieves and Robbers who steal their Lords' effects.

And whereas complaints are made that the Gardens of many persons have been robbed and their Poultry taken away, if there be any one who can give information of the Thieves, he shall be paid by the Hon^{ble} Director five and twenty guilders as a reward, and be pardoned if an accomplice and his name concealed.

Likewise, every one of the Company's servants, of what rank or quality soever he may be, is commanded not to quit the Island of *Manhattan*, without the express permission of the Hon^{ble} Commander. Who-soever shall be found to have acted contrary hereunto shall forfeit three months' Wages.

Thus done in Council and on this date, being the 25th 9ber, published and posted in *Fort Amsterdam*.

ORDINANCE

Of the Director and Council of New Netherland, prohibiting the sale of Firearms, etc., to Indians, and requiring Vessels sailing to or from Fort Orange, the South River, or Fort Hope, to take out clearances.
Passed 31 March, 1639.

[N. Y. Col. MSS. IV. 36.]

Preamble.

WHEREAS the Director General and Council of *New Netherland* have observed that many persons, both Servants of the Company and Inhabitants, have, contrary to the orders and commands of their High Mightinesses the Lords States General and the Incorporated West India Company, presumed to sell to

NEW NETHERLAND.

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the Indians in these parts, Guns, Powder and Lead, which hath already caused much mischief, and if no means be adopted by Us here to prevent the same, would hereafter entail nothing else than greater evil; Therefore every Inhabitant of *New Netherland*, be his state, quality or condition what it may, is most expressly forbidden to sell any Guns, Powder or Lead to the Indians, on pain of being punished by Death, and if any one shall inform against any person who shall violate this Law, he shall receive a reward of Fifty guilders.

No Guns
nor ammu-
nition to be
sold to
Indians.

Penalty

Furthermore, all persons are hereby notified that no one shall undertake to sail with Boats or other Vessels to *Fort Orange*, the *South River*, or *Fort Hope*, without a permit from the Hon^{ble} Director, and on coming thence, bringing with him a clearance from the Commissary residing at the aforesaid place on the part of the Company; And in case it be found that any one has been at the places abovenamed without the aforesaid order, such Vessel and the Wares laden therein shall be confiscated to the use of the Company, and the person shall, in addition, be mulcted in such sum as, according to the merits of the case, shall be deemed proper.

Vessels
trading to
Fort Orange
&c., to take
out clear-
ances.

Penalty for
neglect.

And all our dear and faithful Commissaries who have authority at the places where these presents are sent, are ordered and commanded the same to affix at the usual place, so that their contents may be known to every one and each be on his guard against damage.

Thus done and published in *Fort Amsterdam* this 31st of March, Anno 1639.

MARCH, 1642-3—18th CHARLES 1st.

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letter R. and passe vnder the statute of incorrigible rogues. Provided notwithstanding that where any servants shall have just cause of complaint against their masters or mistrises by harsh or vnchristianlike vsage or otherways for want of diet, or convenient necessaries that then it shall be lawfull for any such servant or servants to repaire to the next comissioner to make his or their complaint, And if the said commissioner shall find by good and sufficient proofes, that the said servant's cause of complaint is just, The said commissioner is hereby required to give order for the warning of any such master or mistress before the commissioners in their seuerall county courts, where the matter in difference shall be decided as they in their discretions shall think fitt, And that care be had that no such servant or servants be misvused by their masters or mistrises, where they shall find the cause of complaint to be just. Be it further also enacted that if any servant running away as aforesaid shall carrie either peice, powder and shott, And leave either all or any of them with the Indians, And being thereof lawfully convicted shall suffer death as in case of felony.

the cheek
with the letter R.

Proviso in
case of ill
usage of master.

Felony to
carry powder, &c. to
the Indians.

 ACT XXIII.

BE it also enacted and confirmed, that what person or persons soever shall sell or barter with any Indian or Indians for peece, powder and shott and being thereof lawfully convicted, shall forfeit his whole estate, the one halfe to the informer the other halfe to the vse of the county where such ffact shall be committed, And if any person shall barter or trade with the Indians for any other comodities such person shall suffer imprisonment at the discretion of the Governour and Counsell, And whereas it is informed that divers persons do entertaine Indians to kill deare or other game, And do furnish the said Indians with peeces, powder and shott, by which great abuse, not onely the Indians (to the great indangering of the collony) are instructed in the vse of ovr arms, But have opportunity given them to store themselves as well with arms as powder and shott, Be it therefore enacted, That what person or persons soever within the collony, shall lend any Indian either peece, powder and shott, It shall be lawfull for any person meeting with any such Indian so furnished, to

Penalty for
selling arms
and ammunition
to the
Indians, or
dealing with
them.

LAWS OF VIRGINIA,

take away either peece, powder or shott, so as such person taking away either peece, powder or shott do carrie the same to the comander of the county, and acquaint him therewith, which said comander is hereby authorized to give possession to the informer either of the peece, powder or shott so brought before him, And the said commander is further required, to make a strict inquiry and examination to find out such person that did lend or give such peece, powder or shott to the Indians, And in case the said commander or other commanders in examination shall find any person by just prooffe delinquent in the premises, he or they are to bind over the said party to answer the same, before the Governor and Counsell the ensuing quarter court, And in such case the party delinquent for his just offence shall forfeit two thousand pounds of tobacco, the one halfe whereof shall be and come to the King's majesty, the other halfe to the informer, And it is further enacted that such delinquent for his second offence shall forfeit his whole estate, one halfe to the King, the other halfe to the informer. And this act to be of force after publication hereof in each county.

 ACT XXIV.

Process
against debt-
ors lately ar-
rived from
England
suspended.

THE Governor and Counsell with the Burgesses of the Grand Assembly haveinge taken into serious consideration the estate of the collony and finding that many people have (through their ingagements in England) forsaken their native countrey and repaired hither with resolution to abide here, hoping in time to gain some competency of subsistance by their labors, Yet neverth'les their creditors hearing of their abroad here in the collony, have prosecuted them with their actions to the ruine of the said debtors, And having duely weighed the causes and reasons induceing such debtors to leave their countrey and friends, And if such suits and pleas be thus early admitted before the countrey shall come to better maturity, It might hazard the deserting of a great part of the country, Therefore that the generall good be preferred before the particular ends of any person, *The Governor, Counsell and Burgesses do hereby enact and confirm*, that all process & suits of this nature be suspended vntil his majestie shall

COURT ORDERS.

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Concerning Saconessett, in reference to abuses of the Lords day, for the bringing of those misdemeanors to light, it is ordered by the Court, —

1675.

That Barnstable choose one of their grandjurymen out of the inhabitants of Saconest.

1 June.
Winstow,
Gov^r.

The sume of thirty five shillings is allowed by the Court vnto John Woodcocke, to be payed to him by John Littlefeild for charges of him and his daughters attendance att the Court to giue testimony in reference to the controversy between Israell Woodcocke and Rebeckah Littlefeild.

Serje: Ephraim Tinkham, for coming into the Court drunke, fined forty shillings.

Samuell Wood, for comitting carnall coppulation with }^u
his now wife before marriage, fined } 5 : 00 : 00

*Att a meeting of the councell of warr for this jurisdiction, held att Plymouth, the fourth day of August, 1675, —

[*120.]

In reference vnto a companie of natives now in costody, brought in to Plymouth, being men, weomen, and children, in number one hundred and twelue, vpon seriouse and deliberate consideration and agitation concerning them, the conclusion is as followeth: that wheras, vpon examination, it is found that seuerall of them haue bine actors in the late rising and warr of the Indians against vs, and the rest compliers with them therin, which they haue done contrary to engagement and couenant made and plighted with this colonie, which they haue pfidiously broken, as appeereth further alsoe in that they did not discouer that pnisious plott which Phillip, with others, completed against vs, which hath caused the destruction of seuerall of vs, by losse of lines and estates, and still held in danger therby, the pnises considered as afor-said, the councell adjudged them to be sold, and deuoted vnto servitude, excepting some few of them, which, vpon speciall consideration, are to be otherwise disposed of, and the Treasurer is appointed by the councell to make sale of them in the cuntryes behalfe.

Forasmuch as by frequent and sad experience it is found, that selling, &c, of armes and amūnition to the Indians is very pnisious and destructive to the English, it is therefore ordered, decreed, and enacted by the councell of warr for this jurisdiction, that whosoeuer shalbe found to sell, barter, or giue, directly or indirectly, any gun or guns, or amūnition of any kind, to any Indian or Indians, and the same legally proued against them, euery such pson or psons shalbe put to death, and in defect of full and legall proffe there, the printed law to take place.

This law is
rattified and
confermed
by the Generall
Court, Nouem:
the 4, 1676.

The councell of warr did vnanimously impower our honored Gour, together with such of the councell as can reddily giue him meeting, being

1675.

1 June.
WINSLOW,
Gov^r.

neare to him, to dismisse and require our forces home againe, as occation may require.

The councell of warr doe impower Serjeant John Tompson and Leiftenant Joseph Howland, to keep the Indian prisonors now att Plymouth, and doe allow them two shillings and sixpence for euey day and night, for euey man that is or shalbe employed in this p^sent seruice.

The councell of warr for this jurisdiction, being mett together att Plymouth the second of September, 1675, to consider of a certaine p^sell of Indians lately come in to Sandwich in a submissiue way to this collonie, doe find, that they are in the same condition of rebellion as those formerly condemned to seruitude, and doe vnanimously agree that the said Indians, being in number fifty-seauen, are condemned vnto ppetuall seruitude, and therfore doe heerby order and appointe the Treasurer to make sale of them, for and to the vse of the collonie, as oppertunity may p^sent.

[*121.] *Receiued this 4th of July, 1671, of my father in law, John Cowin, of Scittuate, the sūme of fiue pounds, and is full satisfaction for my portion allowed mee out of my father, Richard Mans estate, by the honored Court of New Plymouth ; I say receiued by mee.

THOMAS MAN.

Witnessed by James Cudworth.

Receiued this 30th of October, of my father in law Cowin, fiue pounds, for the vse of Josiah Man, which hee was to haue, by the Court order, of his father Cowine ; wee owne it receiued by vs, Thomas Man and Richard Man, as witnes wherof wee haue heervnto sett our hands.

THOMAS MAN.

The marke of R RICHARD MAN.


Timothy White,
Thomas Pinchen.

Of the order of
Court heer in-
timated in
these receipts
see in this
booke in the
yeer in July,
1673.

Receiued, the seauenth of June, 1673, of my father in law, John Cowin, one red horse, and is in full satisfaction for fiue pounds, which the Court ordered him the said Cowin to pay mee as a portion determined by the Court for mee out of my father, Richard Mans estate ; I say I haue receiued the said horse, in full satisfaction for the said portion of fiue pounds. In witnes wherof, I haue heervnto sett my hand.

The marke of R RICHARD MAN.

Witnessed by James Cudworth.

1677. Voted, that the Recorder shall forthwith draw out two  coppies of the order about the Indians ; one to be set up in Newport, and the other in Portsmouth.

Voted, that the Clerke of this Assembly shall have fourteene shillings from each towne, beinge for coppies of this Court acts, with the seale of the Collony affixed.

Voted, this Assembly is dissolved. October 27th.

At a meeting of the Governor and Councill of this Colony, January 22, 1676-7.

Whereas, there are great complaints to this Councill of the great inconveniencies which accrue to this Island, by reason of severall wigwams, which are set up both in men's perticular lands, and in the commons, wherein severall Indians doe meet, gittinge drinke, and are often drunke, and is to be feared by such meetings they may have oppertunity to plot anew, mischief to our great damage ; the premises considered, this Councill doe order, that no person shall suffer any Indian wigwam to be built upon his land, or shade made of mats or in other ways made for the entertaininge of Indians ; or of any such aforesaid be all ready built, all such wigwams or shades so built, shall, after warninge given by a Magistrate, or any other appointed by him, be pulled down by the owner of the lands where such wigwams or shades are set up, within two days after the said warninge ; and upon refusall, it shall be in the power of the Governor and Deputy Governor, or any one Assistant, to grant forth warrant to a Constable to take sufficient aide with him, and to pull downe and demollish all such wigwams or shades as aforesaid. Further, it is ordered, that the same warninge as abovesaid, shall be given to all persons which have set up or built any such wigwam or shade as aforesaid in the common of this Island, to pull them down, and upon refusall, a warrant from the Governor, to a constable as aforesaid, to demollish all such wigwams.

AND PROVIDENCE PLANTATIONS.

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Ordered, that if any Indian or Indians upon this Island 1677. shall be found with any liquors or stronge drinke about him or them, in either bottle or bottles, or any other vessel, it shall be lawfull for any inhabitant upon this Island to take away all such liquors or strong drinke, and to break all such bottles or vessells, in pieces.

Ordered, the Councill takeinge in their serious considerations not only the inconveniencies, but the discontent which arises in severall inhabitants of this Island, by reason that severall Indians doe pass and re-pass on and off this Island, with guns and ammunition, showinge noe ticket or order soe to doe, these are to order and authorize any inhabitant of this Island that shall meet any Indian or Indians with either gun or guns, or ammunition to take them from him or them, and bring both guns, ammunition and Indians before the Governor or Deputy Governor, to be examined of the reason of their so doeinge, and to dispose of them accordinge to either of their discretions.

Further, it is ordered, that the Secretary shall draw forth two coppies, one for Newport, and one for Portsmouth, to be set upon some publicke place. Likewise, that the Clerke of each towne shall reade and publish these orders in their first towne meetinge convened after these orders come in to his hand.

Letter from Rhode Island to Connecticut.

Newport, Aprill 21, 1677.

Honored Gentlemen: Forasmuch as we are informed that by your warrant and express order, divers of inhabitants of the Narragansett country are taken by Capt. Geo. Denison, and carried away as prisoners for their lawful employments; and also from their possessions in this Collony, and within the bounds thereof are arrested and conveyed to yourselves for tryall upon default of execution and disobedience to your authoritie exercised by your declarations and edicts given forth within our limits

JUNE, 1680—32d CHARLES II.

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fees be eight per cent and noe more, and that all sher-
riffes and other collectors of the same shall allow the
planter or others eight per cent for his caske as afore-
said, upon penalty of paying for refuseing soe to doe
one hundred pounds of tobacco to the party greived
and to whome he shall deny such allowance, and on
due prooffe made thereof, to be recovered by action of
debt in any court of record, or before one single jus-
tice of the peace if the same exceeds not two hundred
pounds of tobacco.

ACT X.

An act for preventing Negroes Insurrections.

Edit. 1733 and
1752.

Purvis 272.
Preamble.

No negro, or
other slave to
carry arms, of-
fensive or de-
fensive;

or go from his
owner's plant-
ation without
a certificate,
&c.

Punishment.

For lift'g hand
ag'st a Chris-
tian.

Negroes lying
out and doing
mischief, and

WHEREAS the frequent meeting of considerable
numbers of negroe slaves under pretence of feasts
and burialls is judged of dangerous consequence;
for prevention whereof for the future, *Bee it enacted
by the kings most excellent majestie by and with the
consent of the generall assembly, and it is hereby enact-
ed by the authority aforesaid*, that from and after the
publication of this law, it shall not be lawfull for any
negroe or other slave to carry or arme himselfe with
any club, staffe, gunn, sword or any other weapon of
defence or offence, nor to goe or depart from of his
masters ground without a certificate from his master,
mistris or overseer, and such permission not to be
granted but upon perticuler and necessary occasions;
and every negroe or slave soe offending not haveing a
certificate as aforesaid shalbe sent to the next consta-
ble, who is hereby enjoyned and required to give the
said negroe twenty lashes on his bare back well layd
on, and soe sent home to his said master, mistris or
overseer. *And it is further enacted by the authority
aforesaid* that if any negroe or other slave shall presume
to lift up his hand in opposition against any christian,
shall for every such offence, upon due prooffe made
thereof by the oath of the party before a magistrate,
have and receive thirty lashes on his bare back well
laid on. *And it is hereby further enacted by the au-
thority aforesaid* that if any negroe or other slave shall
absent himself from his masters service and lye hid

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LAWS OF VIRGINIA,

refusing to be
apprehended,
may be killed.

This law to be
published at L
county c'rts &
parish church-
es, every six
months.

and lurking in obscure places, comitting injuries to the inhabitants, and shall resist any person or persons that shalby any lawfull authority be imployed to apprehend and take the said negroe, that then in case of such resistance, it shalbe lawfull for such person or persons to kill the said negroe or slave soe lying out and resisting, and that this law be once every six months published at the respective county courts and parish churches within this colony.

 ACT XI.

Edit. 1733 and
1752.

An act for presentation and delivery of greivances.

Purvis 273.

Preamble.

Sheriff, before
any session of
assembly to
appoint a time
and place for
receiving
grievances of
the people.

All proposi-
tions to be
signed.

FORASMUCH as it hath beene too frequent by the practice of ill disposed and seditious persons to deliver to their burgesses, and they to the assemblies, scandalous and seditious papers, and to entitle and call them the grievances of the inhabitants of such county or countyes wherein they dwell, neither giveing or presenting the same in lawfull manner, nor in truth being knowne to any other his majesties good subjects of such county whose title they beare; *Bee it enacted by the kings most excellent majestie by and with the consent of the generall assembly, and it is hereby enacted by the authority aforesaid* that the sherriffe of each county shall before every session of assembly appoint a tyme and place for presenting, giveing and receiving all county greivances which shalbe signed by the partyes giveing the same and attested by the clarke of the county court, or chief magistrate soe to be, and all other private propositions or perticuler agrievances shalbe signed by the partye delivering the same, or not to be received into the assembly.

 ACT XII.

Edit. 1733 and
1752.

An act prohibiting the transportation of raw hides and Deer Skins.

Purvis 274.

BEE it enacted by the kings most excellent majestie by and with the consent of the generall assembly and it is hereby enacted, that from and after the publi-

Sixteenth of *September* in the Year of our Lord 1684, Captain *John Pike*, and *John Pike* his Son, were by a Verdict of a Jury, then and there convicted of Felony; and upon further enquiry into the said Matter, it appears that the Intention of the said *John Pike*, the Elder, and Younger, were not Fellonious, nor the Goods found in their House, upon which the Verdict proceeded, conveyed there with their Consent or Privity. That therefore the said *John Pike* and his Posterity, together with the rest of his Fathers Family may be restored against the Crime imputed by the said Act, as if never any such Conviction had been; therefore we pray that it may be enacted, **AND BE IT ENACTED** by the Governor, Council and Deputies now met and assembled in General Assembly, and by the Authority of the same, that from henceforth the said *John Pike*, together with the Family above-said, be restored to their former good name, and to all other Immunities, equal with any of their Majesties Leige People, as if never any such Thing had been. **AND BE IT FURTHER ENACTED** by the Authority aforesaid, that whatsoever Person or Persons, shall from and after Publication hereof, presume to reproach or scandalize the said *John Pike*, his Posterity, or any of the aforesaid Family, upon the account of any such Judgment passed aforesaid, that it shall in such Case be lawful for the said *John Pike*, his Posterity or Family as aforesaid, or either of them so abused, to Commence an Action of Defamation against the Person or Persons so Offending; any Thing in the above said Verdict or Judgment to the Contrary notwithstanding.

Chap. II.

An ACT concerning Slaves, &c.

WHEREAS complaint is made by the Inhabitants of this Province, that they are greatly injured by Slaves having liberty to carry Guns and Dogs, into the Woods and Plantations, under pretence of Gunning, do kill Swine. **BE IT ENACTED** by the Governor, Council and Deputies in General Assembly met and assembled, and by the Authority of the same,

Laws passed in 1694.

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same, that no Slave or Slaves within this Province after Publication hereof, be permitted to carry any Gun or Pistol, or take any Dog with him or them into the Woods, or Plantations, upon any pretence whatsoever; unless his or their Owner or Owners, or a white Man, by the order of his or their Owner or Owners, be with the said Slave or Slaves, upon the penalty of *Twenty shillings* for the first Offence, and for the second Offence, *Thirty shillings*, and so for every Offence after so committed *Ten shillings* more; the one half to the informer that shall Prosecute the same to effect, the other half to the use of the Poor belonging to the Town where the fact was committed, to be recovered as an Action of Debt; *Forty shillings* or under to be tryed at the Court of small Causes in the Town where the fact was committed, and above *Forty shillings* to be try'd by the County Court where the fact was committed; the said Action to be commenced against the Owner or Owners, of the aforesaid Slave or Slaves so Offending; and after Judgment obtained against the said Owner or Owners, Execution to be levied upon their Bodies or Estates, for the Satisfaction of the said Penalty so recovered as aforesaid with cost. AND BE IT FURTHER ENACTED by the Authority aforesaid, that no Person or Persons within this Province, shall suffer his or their Slave or Slaves, to keep any Swine, but what are of their Owners mark, upon the penalty of *Twenty shillings* for every Swine otherwise marked; to be recovered of the Owner or Owners of the said Slave or Slaves as aforesaid. And Whereas it is found Injurious to many of this Province having Slaves, that their Slaves are withheld by the Countenance, Harboursing and Entertaining of them by many of the Inhabitants thereof, without their Owners consent: BE IT ENACTED by the Authority aforesaid, that any Person or Persons on whom it can be proved, that they do presume to suffer any Slave to be or remain in his House, not Licensed by his Owner as aforesaid, by the space of two Hours, shall forfeit the Sum of *five shillings*, and so proportionably for a longer Time, to the Owner wrong'd thereby; and that it shall be lawful for any Person to apprehend and take up as a Runaway, any Slave that shall be found five Miles from his Owners Habitation;

R r r r

ex

or Town of his abode, without a Certificate for the same, and upon returning the said Slave or Slaves, to the said Owner or Owners, he or they so apprehending and returning as aforesaid, shall have paid them by the Owner or Owners of the said Slave or Slaves within Ten Miles distance, *five shillings*; if within Twenty Miles, and more than Fifteen Miles from the said Owners Habitation, *Ten Shillings per head*, and if further, than *six-pence per Mile* more to be paid and recovered as aforesaid. AND BE IT FURTHER ENACTED by the Authority aforesaid, that if any Person or Persons shall lend, give or hire out to any Slave, or Slaves, Pistol, Gun or Guns, the said Person or Persons so lending, giving, or hiring, shall forfeit the said Pistol, Gun or Guns, or *Twenty Shillings* to the Owner of the said Slave or Slaves, to be recovered as an Action of Debt as aforesaid.

Chap III.

An ACT for regulation of Trade within this Province.

THAT the Act for Trade and Navigation may be duly observed in this Province, BE IT ENACTED by the Governor, Council and Deputies in General Assembly met and assembled, and by the Authority of the same, that all Deck'd Vessels coming into or belonging to this Province, shall make a report at their Majesty's Custom-House, at *Perth-Amboy*, within the space of Twenty four Hours after their Arrival, and enter and clear at the said Custom-House, if they unload or load, under the Penalty of the Forfeiture, and loss of all the Goods and Commodities, which shall be so exported, or imported, as also of the Ship, with all its Guns, Furniture, Tackle, Ammunitions and Apparel, one third Part to the King and Queen, their Heirs, and Successors, one third Part to the Governor for the Time being, and one third Part to him or them, who shall seize, inform and sue the same to effect in any Court of Record within this Province.

1705-6] *The Statutes at Large of Pennsylvania.*

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be granted against any person or person's effects, but such only as at the time of granting such writs are not resident or residing within this province, or are about to remove or make their escape out of the same, and shall refuse to give sufficient security to the complainant for his debt or other demand before he depart the said province.

Provided also, That after judgment obtained by the plaintiff upon any attachments against non-residents, the plaintiff shall, before sale and after execution is awarded, find security, who shall undertake for the plaintiff, that if the defendant in the attachment shall, within a year and a day next following, by himself or attorney come into court and disprove or avoid the debt recovered by the plaintiff against him, or shall discharge the same, with costs, that then the plaintiff shall restore to the defendant the goods or effects, or [the] value thereof, by the plaintiff attached and condemned, or so much thereof as shall be disproved or discharged or else that they shall and will do it for him.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 2, 1722-3, Chapter 263; August 22, 1752, Chapter 399; January 22, 1774, Chapter 693; September 28, 1789, and Chapter 1445, supplied and repealed by the two Acts of Assembly passed June 13, 1836, P. L. 580 and 606.

CHAPTER CXLIII.

AN ACT FOR THE TRIAL OF NEGROES.

Whereas some difficulties have arisen within this province about the manner of trial and punishment of negroes committing murder, manslaughter, buggery, burglary, rapes, attempts of rapes and other high and heinous enormities and capital offenses; for remedy thereof, and for the speedy trial and condign punishment of such negro or negroes offending as aforesaid:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for two justices of the peace of this province, who shall be particularly commissioned by the governor for that service, within the respective counties thereof, and six of the most substantial freeholders of the neighborhood, to hear, examine, try and determine all such offenses committed by any negro or negroes within this province; which said freeholders shall be, by warrant under the hands and seals of the respective justices commissioned as aforesaid, directed to the next constable, summoned to appear at such time and place as the said justices shall therein appoint: which freeholders the said justices shall solemnly attest, well and truly to give their assistance and judgment upon the trial of such negro or negroes; who shall hold a court for the hearing, trying, judging, determining and convicting of such negro or negroes as shall be before them charged or accused of committing any murder, manslaughter, buggery, burglary, rapes, attempts of rapes, or any other high or heinous offense committed, acted or done in any of the respective counties within this province as aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That upon the holding of such court by the said justices and freeholders as aforesaid, it shall and may be lawful for the said justices and freeholders to examine, try, hear, judge, determine, convict, acquit or condemn, according to evidence and full proof, any negro or negroes, for any the crimes or offenses aforesaid, or any other high or capital offense; and, upon due proof and conviction, to pronounce such judgment or sentence in the premises as is agreeable to law and the nature of the offense; or otherwise to acquit, free and discharge such negro or negroes, in case the evidence shall not be sufficient for a conviction therein.

[Section III.] And be it further enacted by the authority aforesaid, That where such negro or negroes shall be convict, and

judgment or sentence shall be pronounced by the respective justices and freeholders as aforesaid, and a warrant by them signed and sealed, to be directed to the high-sheriff of the county where the fact was committed or tried, for the execution of such negro or negroes, the same shall be duly executed, or caused to be duly executed by the said sheriff, on pain of being disabled to act any longer in that post or office.

And if any of the said justices or freeholders neglect or delay to do their duty therein, they shall be liable to be fined by the governor and council, in any sum not exceeding five pounds; to be levied by distress and sale of the goods and chattels of such justices or freeholders so refusing as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That if any negro or negroes within this province shall commit a rape or ravishment upon any white woman or maid, or shall commit murder, buggery or burglary, they shall be tried as aforesaid, and shall be punished by death. And for an attempt of rape or ravishment on any white woman or maid, and for robbing, stealing, or fraudulently taking and carrying away any goods living or dead, above the value of five pounds, every negro, upon conviction of any of the said crimes, shall be whipped with thirty-nine lashes, and branded on the forehead with the letter R or T, and exported out of this province by the master or owner within six months after conviction, never to return into the same, upon pain of death; and shall be kept in prison till exportation, at their master's or owner's or their own charge. And for robbing or stealing any goods as aforesaid, under the value of five pounds, every negro, upon conviction thereof, shall be whipped at the discretion of the justices with any number of lashes not exceeding thirty-nine; and the master or owner of such negro shall make satisfaction to the party wronged for the value, and pay all costs; to be levied by distress and sale of the said master's or owner's goods, if he or they refuse or delay to answer it otherwise.

[Section V.] And be it further enacted by the authority aforesaid, That if any negro shall presume to carry any guns, sword, pistol, fowling piece, clubs or other arms or weapons whatsoever without his master's special license for the same, and be

convicted thereof before a magistrate, he shall be whipped with twenty-one lashes on his bare back.

[Section VI.] And be it further enacted by the authority aforesaid, That for the preventing negroes meeting and accompanying together upon the First-days of the week, or any other day or time, in great companies or numbers; that [*sic*] if any person or persons give notice thereof (and to whom they respectively belong) to any justice of the peace within this province, the same being above the number of four in company and upon no lawful business of their master's or owner's, such negroes so offending shall be publicly whipped at the discretion of one justice of the peace, not exceeding thirty-nine lashes.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III. Repealed by an Act of Assembly passed March 1, 1780, Chapter 881.

CHAPTER CXLIV.

AN ACT TO PREVENT THE IMPORTATION OF INDIAN SLAVES.

Whereas the importation of Indian slaves from Carolina or other places hath been observed to give the Indians of this province some umbrage for suspicion and dissatisfaction:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if, after the twenty-fifth day of March, in the year one thousand seven hundred and six, any person shall import, or cause to be imported, any Indian slaves or servants whatsoever, from any province or colony in America into this province, by land or water, such only and their children (if any) excepted, as for the space of one year before such importation, shall be proved

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1715.

plead as at-
tornies in
those courts
wherein they
bear office

Persons cast
in a cause to
be amerced.

Clerks to
keep ac-
count, of
the amercia-
ments and to
send them to
the sheriff
for collection

Lists of the
county a-
merciaments
to be given
to the chief
justice—of
the provin-
cial, to the
governor
and council.

deputy-sheriff, clerk or deputy-clerk of those courts wherein they bear office, shall plead as attornies for or in behalf of any person or persons, on penalty of forfeiting three thousand pounds of tobacco for every such offence, whereof such offenders shall be found guilty, one half thereof to his majesty, his heirs and successors for the support of the government of this province, the other half to the informer, or him or them that shall sue for the same, to be recovered in any court of record within this province, by bill, plaint or information, wherein no essoin, protection or wager of law to be allowed.

X. AND, for the discouragement of litigious suits that frequently arise in the provincial and county courts within this province, BE IT ENACTED, *by the authority, advice and consent aforesaid*, That all persons whatsoever, except executors and administrators, that are cast in any cause, be they Plaintiff or Defendant, shall be amerced, besides the damages and costs, in the provincial court, fifty pounds of tobacco, to be employed as the governor and council shall think fit, and in the county court, thirty pounds of tobacco, to be employed and disposed of towards defraying the county charge of each respective county,

This section is repealed by 1722, ch. 12. sec. 1.

XI. AND, for the due collection thereof, BE IT ENACTED, *by the authority, aforesaid*, That the clerk of the provincial court, and the clerks of the several county courts, keep an exact account of the amerciaments, and deliver or send the same to the several sheriffs of the particular counties, who are hereby required to collect the same with the levy, and are accordingly empowered, for default of payment, to make distress, and commanded not to return any in arrears, except in case of the debtor's insufficiency.

XII. AND BE IT FURTHER ENACTED, That the clerks of the several county courts give unto the chief justice of such county court a list of the amerciaments every November court that shall have arisen each preceding year; and that the clerk of the provincial court lay a list of the provincial amerciaments, as they shall yearly arise, before the governor and council of this province for the time being.

Vide list of acts relating to the administration of justice, 1805, ch. 65

CHAP. XLIV.

An ACT relating to servants and slaves.

Supplementary and other acts: 1715, ch. 44—1717, ch. 13.—1723, ch. 15.—1728, ch. 4.—1729, ch. 4.—1748, ch. 19.—1751, ch. 14.—1753, ch. 26.—1755, ch. 9.—1787, ch. 33.—1796, ch. 67.—1797, ch. 15. 75.—1798, ch. 76.—1801, ch. 109.—1802, ch. 68. 92. 96.—1804, ch. 90.—1805, ch. 65. 69.—1806, ch. 56.—1807, ch. 164.—1808, ch. 81.—1809, ch. 171

April,
1715.

Preamble.

No servant
to travel ten
miles from
home with-
out a note
from his or
her master.

Penalty on
servants for
absenting
themselves.

On persons
entertaining
them.

And on free-
negroes har-
bouring
them

WHEREAS there have been several acts provided against servants, runaways, which have hereto proved ineffectual, in regard they do not sufficiently provide encouragement for such person or persons, inhabitants of this province, as should seize such runaways or servants, by this act deemed runaways; therefore, for the better discovery, seizing and apprehending such runaways,

II. BE IT ENACTED, *by the King's most excellent majesty, by and with the advice and consent of his majesty's Governor, Council and Assembly of this province, and the authority of the same,* That from and after the publication hereof, no servant or servants whatsoever, within this province, whether by indenture, or according to the custom of the country, or hired for wages, shall travel by land or water ten miles from the house of his, her or their master, mistress or dame, without a note under their hands, or under the hand of his or their overseer, if any be, under the penalty of being taken for a runaway, and to suffer such penalties as are hereafter provided against runaways.

III. AND IT IS HEREBY FURTHER ENACTED, *by the authority, advice and consent aforesaid,* That any servant or servants, unlawfully absenting him, her or themselves, from his, her or their said master, mistress, dame or overseer, shall make such satisfaction by servitude, or otherwise, at the discretion of the justices of the county court where such runaway servant did dwell not exceeding ten days service for any one day's absence, with such reasonable cost for his, her or their taking up, as the court shall think fit, be it before or after the expiration of such servant's first time of servitude by indenture or otherwise.

IV. AND BE IT FURTHER ENACTED, *by the authority, advice and consent aforesaid,* That any person or persons whatsoever, that shall wittingly or willingly entertain any such servant or slave unlawfully absenting him, her or themselves as aforesaid, shall be fined five hundred pounds of tobacco for every (a) night, or twenty-four hours, that such person or persons shall give such entertainment as aforesaid, the one half to his majesty, his heirs and successors, for the support of government, and the other half to the informer, or him or them that shall sue for the same, to be recovered in any county court of this province, by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law to be allowed.

(a) By 1748, ch. 19, persons wittingly or willingly entertaining any servants or slaves, unlawfully absenting, &c. or permitting them to be about their houses or plantations, for one hour or longer, shall forfeit 100lb. of tobacco for each hour, &c. and persons unable to pay the penalty, are punishable by whipping, and shall give security for good behaviour, &c. also servants or slaves so offending may be whipped.

V. AND BE IT FURTHER ENACTED, That if any free negro or mulatto shall harbour or entertain any such servant or slave

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as aforesaid, in every such case, he or they so offending shall forfeit and pay as aforesaid, for every such offence, the sum of one thousand pounds of tobacco, the one half to our sovereign lord the king, his heirs and successors, for the use of the free-schools, the other half to the party grieved, to be recovered as aforesaid; and if any such offending negro or mulatto hath not an estate sufficient wherewith immediately to satisfy and pay such penalty as aforesaid, it shall and may be lawful for the justices before whom such matter is tried, to order satisfaction, by servitude or otherwise, as they shall seem meet.

VI. AND, for the better discovery of runaways, **IT IS HEREBY FURTHER ENACTED**, *by the authority, advice and consent aforesaid*, That any person or persons whatsoever within this province, travelling out of the county where he, she or they shall reside or live, without a pass under the seal of the said county, for which they are to pay ten pounds of tobacco, or one shilling in money, such person or persons, if apprehended, not being sufficiently known, or able to give a good account of themselves, shall be left to the discretion and judgment of such magistrate or magistrates before whom such person or persons as aforesaid shall be brought, to judge thereof, and if, before such magistrate, such person or persons so taken up, shall be deemed and taken as a runaway or runaways, he, she or they shall suffer such fines and penalties as are hereby provided against runaways.

Persons travelling without passes (not being able to give a good account of themselves) may be taken up as runaways

VII. AND, for better encouragement of all persons to seize and take up such runaways, **IT IS HEREBY FURTHER ENACTED**, *by the authority, advice and consent aforesaid*, That all and every such person or persons as aforesaid, seizing or taking up such runaways, travelling without passes as aforesaid, not being able to give a sufficient account of themselves as aforesaid, shall have and receive two hundred pounds of tobacco, to be paid by the owner of such runaway servant, negro or slave, so apprehended and taken up; and if such suspected runaway or runaways be not servants, and refuse to pay the same, he, she or they, shall make satisfaction by servitude, or otherwise, as the justices of the provincial and county courts, where such person shall be so apprehended and taken up, shall think fit.

Allowance for taking up runaways.

By 1806, ch. 81. sec. 5. six dollars are allowed instead of 200lbs of tobacco.

VIII. AND, For the better discovery of, and encouragement of our neighbour Indians to seize, apprehend or take up, any runaway servants or slaves, and bring them before a magistrate, they shall, for a reward, have a match-coat paid him or them, or the value thereof, which said reward shall be paid and satisfied by the county where such person shall be so apprehended; and such runaway, if not a slave, to reimburse the said county by servitude, or otherwise, as the justices of the provincial or county court shall think fit.

Reward to Indians for apprehending runaways.

April,
1715.

Persons apprehended,
how to be
disposed of.

IX. AND BE IT FURTHER ENACTED, *by the authority, advice and consent aforesaid*, That at what time soever any of the said persons, runaways, shall be seized by any person or persons within this province, such person or persons so apprehending or seizing the same, shall bring, or cause him, her or them, to be brought before the next magistrate, or justice of the county where such runaway is apprehended, who is hereby empowered to take into custody, or otherwise him, her or them, to secure and dispose of, as he shall think fit, until such person or persons, so seized and apprehended, shall give good and sufficient security to answer the premises the next court that shall first ensue in the said county; which court shall secure such person or persons till he or they can make satisfaction to the party that shall so apprehend or seize such runaways, or other persons, as by this act is required, except such person shall make satisfaction as aforesaid before such court shall happen; and that notice may be conveniently given to the master, mistress, dame, or overseer of runaways taken up as aforesaid, the commissioners of the counties shall forthwith cause a note of the runaway's name, so seized and apprehended as aforesaid, to be set up at the next adjacent county courts, and at the provincial court and secretary's office, that all persons may view the same, and see where such their servants are, and in whose custody.

Freedom
dues, to a
man servant.

X. AND, furthermore, for ascertaining what each servant, according to the custom of the country, shall have at the expiration of their servitude, BE IT ENACTED, *by the authority, advice and consent aforesaid*, That every man servant shall, at such time of expiration of his servitude as aforesaid, have allowed and given him one new hat, a good suit; that is to say, coat and breeches, either of kersey or broad cloth, one new shift of white linen, one new pair of French fall shoes, and stockings, two hoes and one axe, and one gun of twenty shillings price, not above four foot by the barrel, nor less than three and an half, which said gun shall, by the master or mistress, in the presence of the next justice of the peace, be delivered to such free man, under the penalty of five hundred pounds of tobacco on such master or mistress omitting so to do, and the like penalty on the said free man selling or disposing thereof within the space of twelve months, the one half whereof to our sovereign lord the king, his heirs and successors, the other to the informer; all women servants, at the expiration of their servitude as aforesaid, shall have allowed and given a waistcoat and petticoat of new half-thick, or penistone, a new shift of white linen, shoes and stockings, a blue apron, two caps of white linen, and three barrels of Indian corn.

To a woman
servant.

Penalty on
persons
dealing with
servants.

XI. AND BE IT FURTHER ENACTED, *by the authority, advice and consent aforesaid*, That no person whatsoever shall trade, barter, commerce, or any way deal with any servant.

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whether hired or indented, or slave, belonging or appertaining to any inhabitant within this province, without leave or licence first had and obtained from such servant's master, mistress, dame or overseer, for his so doing, under the penalty of two thousand pounds of tobacco, the one half thereof to his majesty, his heirs and successors for the support of government, the other half to the master, mistress, or true owners of such goods so purloined, bartered or conveyed away, when proved by sufficient witness, or confession of the party, to be recovered in any court of record of this province by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law to be allowed.

April,
1715.

XII. AND BE IT FURTHER ENACTED, *by the authority, advice and consent aforesaid*, That if the goods so traded or bartered for as aforesaid shall exceed the sum of one thousand pounds of tobacco, then the party or parties, whose goods shall be embezzled or bartered away as aforesaid, shall have his action at law for the damage sustained against the person or persons so offending, dealing or bartering for the same, any thing in this act to the contrary notwithstanding.

Party griev-
ed may
have
action of
damage.

XIII. AND, In case such person or persons so offending shall not be able to satisfy the same, then such person or persons shall be bound over by some one justice of the peace, and put in security, either to appear at the next provincial or county court, where, upon conviction, by confession or sufficient witness, the offender shall be punished by whipping on the bare back with thirty stripes.

Offenders
may be
whipped, if
not able to
pay.

XIV. AND, for the ascertaining and limiting servants times of servitude, BE IT ENACTED, *by the authority, advice and consent aforesaid*, That whosoever shall transport any servant into this province without indenture, such servant being above the age of twenty-two years, shall be obliged to serve the full time of five years; if between eighteen and twenty-two years, without indentures, six years; if between fifteen and eighteen, without indentures, seven years; if under fifteen, without indentures, shall serve till he or they arrive at the full age of twenty-two years.

Time of ser-
vitude of
servants
imported
without in-
dentures,
settled.

XV. AND BE IT FURTHER ENACTED, *by the authority, advice and consent aforesaid*, That all servants transported out of Virginia into this province, shall complete their time of servitude here which they ought to have served in Virginia, and no more.

Time of ser-
vitude to be
completed.

XVI. AND BE IT FURTHER ENACTED, *by the authority, advice and consent aforesaid*, That every master, mistress, dame, assignee or trustee whatsoever, owning or keeping any such servants as aforesaid, whether by virtue of transportation, purchase, or otherwise, shall within six months after the receiving such servants into their custody, within this province, (except he, she or they, claim but five years service of such servants,) bring the said servants into the respective county courts where

Servants a-
ges to be
adjudged,
within six
months.

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they do inhabit, and every of the said courts are hereby authorized to judge and determine of the age of such servants so brought, and cause the same to be entered upon record ; and every owner as aforesaid neglecting or refusing to bring such servant or servants before the court as aforesaid, shall not only stand to the determination of the court, but also forfeit the sum of one thousand pounds of tobacco to the king, his heirs and successors, for the support of government ; and if any master or servant aforesaid be grieved with the determination of the court, he shall, within the time determined for their service, produce an authentic certificate of such servant's age, and shall have remedy to the ages afore-mentioned.

Service to
commence
from an-
choring.

XVII. AND, forasmuch as disputes have formerly arose at what time servants time of servitude, whether by indenture or otherwise, should commence, **BE IT ENACTED, by the authority, advice and consent aforesaid,** That all servants transported into this province, whether by indenture or otherwise, and so bound or adjudged as aforesaid, shall commence their time of servitude from the first anchoring of the vessel within this province.

Proviso.

XVIII. PROVIDED, That the said vessel tarry not above fourteen days after her entry within the capes, and her first anchorage in this province ; and all the days such ship or ships shall tarry in Virginia above fourteen days, shall be adjudged part of the service of such servant which shall be afterwards brought into Maryland, and there sold, any law, usage or custom to the contrary notwithstanding.

Certain in-
dentures to
be void.

XIX. AND BE IT ALSO ENACTED, *by the authority, advice and consent aforesaid,* That every indenture made by any servant, during the time of his service by former indenture, or judgment of the county court, according to the tenure of this act, shall be void, and not any ways oblige any servant for longer time than by his first indenture or judgment of the court shall be limited and appointed.

Owners to
pay for ser-
vants taken
up in Penn-
sylvania or
Virginia.

XX. AND BE IT FURTHER ENACTED, *by the authority, advice and consent aforesaid,* That for all such runaway servants or slaves that shall be apprehended and taken up in the province of Pennsylvania, or colony of Virginia, and from thence brought into this province, and delivered to a magistrate of the county into which they shall be brought, the person, for so doing, shall have paid and allowed him, by the master or owner of such runaway, four hundred pounds of tobacco and cask, or forty shillings in money, upon his producing a certificate from the justice or sheriff of the delivery of such runaway, except servants or runaways brought from Accomack into Somerset county, for such only two hundred pounds of tobacco, or twenty shillings, and the like from that side of Virginia next the river Patowmack ; for which said sum or sums paid, such runaway shall make satisfaction when free, by service or otherwise, besides what shall be adjudged as a recompence for the absence of such runaway servant as aforesaid, as the court shall

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adjudge : but if such person, so apprehended, brought and delivered as aforesaid, be a freeman, and refuse to pay such sum or sums of tobacco, or money, then and in such case the magistrate before whom he or she shall be brought shall forthwith commit the said person so refusing to prison, till he or she give sufficient security, or make full satisfaction by servitude or otherwise.

XXI. AND BE IT FURTHER ENACTED, *by the authority aforesaid*, That if any master or mistress of any servant whatsoever, or overseer by order or consent of any such master or mistress, shall deny, and not provide sufficient meat, drink, lodging and cloathing, or shall unreasonably burthen them beyond their strength with labour, or debar them of their necessary rest and sleep, or excessively beat and abuse them, or shall give them above ten lashes for any one offence, the same being sufficiently proved before the justices of the county courts, the said justices have hereby full power and authority for the first and second offence to levy such fine upon such offender as to them shall seem meet, not exceeding one thousand pounds of tobacco, to the use of his majesty, his heirs and successors, for the support of government, and for the third offence, to set such servant so wronged at liberty, and free from servitude ; but in case the master or owner of any such servant shall think that he or they deserves greater correction, then the said master or owner of such servant or servants shall or may carry them before any justice of the peace, who, hearing the complaint, shall order such correction as he shall see fit, not exceeding thirty-nine lashes for any one offence.

Penalty on
masters for
not providing
food, &c.

XXII. AND BE IT ALSO ENACTED, *by the authority aforesaid*, That all negroes and other slaves already imported, or hereafter to be imported into this province, and all children now born, or hereafter to be born, of such negroes and slaves, shall be slaves during their natural lives.

Slaves &c. to
be slaves for
life, together
with their
issue.

XXIII. AND, forasmuch as many people have neglected to baptize their negroes, or suffer them to be baptized, on a vain apprehension that negroes, by receiving the sacrament of baptism, are manumitted and set free ; BE IT HEREBY FURTHER DECLARED AND ENACTED, *by and with the authority, advice and consent aforesaid*, That no negro or negroes, by receiving the holy sacrament of baptism, is thereby manumitted or set free, nor hath any right or title to freedom or manumission, more than he or they had before, any law, usage or custom to the contrary notwithstanding.

Negroes not
entitled to
freedom by
being bapti-
zed.

XXIV. AND BE IT FURTHER ENACTED, That all ministers, pastors and magistrates, or other persons whatsoever, who, according to the laws of this province, do usually join people in marriage, shall not, upon any pretence, join in marriage any negro whatsoever or mulatto slave with any white person, on the penalty of five thousand pounds of tobacco, the one half to his majesty, his heirs and successors, for the use of free

Ministers
not to marry
slaves with
white per-
sons.

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schools, the other half to the informer, or him or them that shall sue for the same, to be recovered in any court of record of this province by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law to be allowed.

By the act of 1717, ch. 17, section 4, any free negro or mulatto intermarrying with any white person shall become a slave for life, excepting mulattoes born of white women, who shall only become servants for seven years; and any white man or woman intermarrying with any negro or mulatto, shall become a servant for seven years, to be disposed of at the discretion of the county court, and applied towards the support of the county school.

Penalty on white women being got with child by slaves.

XXV. AND BE IT FURTHER ENACTED, by the authority aforesaid, That any white woman, whether free or a servant, that shall suffer herself to be got with child by a negro or other slave, or free negro, such woman, so begot with child as aforesaid, if free, shall become a servant for and during the term of seven years; if a servant, shall finish her time of servitude, together with the damage that shall accrue to such person to whom she is a servant, by occasion of any child or children begotten as aforesaid in the time of her servitude as aforesaid, and after such satisfaction made, shall again become a servant for and during the term of seven years aforesaid.

On free negroes that beget such child.

XXVI. AND, If such begetter of such child as aforesaid be a free negro, he shall become a servant for and during the term of seven years as aforesaid, to be adjudged by the justices of the county court where such fact is committed, according to this law, in the clause made and provided against such servants as have bastards: (and the issues or children of such unnatural and inordinate copulations, shall be servants until they arrive at the age of one and thirty years.)

And on white men getting together with child.

XXVII. AND, Any white man that shall beget any negro woman with child, whether free woman or servant, shall undergo the same penalties as white women; all which times of servitude, by this act imposed upon the persons having so offended, to be disposed of or employed as the justices of such county shall think fit, the produce whereof shall be appropriated towards defraying the county charge.

By 1728, ch. 4, free mulatto women, and their bastard issue, shall be subject to the same penalties as white women (and their issue) are, for having made or begetting, according to the three preceding sections, bastards; and white women having bastards by white men, and their issue, shall be subject to the same penalties; and the proceedings thereon to be the same as above prescribed.

Sections of the 26th and 27th sections as relates to the issue of the free mulattoes mentioned in them, and in the 25th section, was repealed by 1729, ch. 7. So much of the 26 and 27 sections of the act of 1728, as relates to the issue therein mentioned, were repealed by the same act, and with the same saving.

Sections of the 26th and 27th sections as relates to the issue of the free mulattoes mentioned in them, and in the 25th section, was repealed by 1729, ch. 7.

XXVIII. AND BE IT FURTHER ENACTED, by the authority aforesaid, That any servant woman having a bastard child, and

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not able sufficiently to prove the party charged to be the begetter of such child, in every such case the mother of such child shall be liable to satisfy the damage so sustained, by servitude or otherwise, as the court before whom such matter is brought shall see convenient.

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XXIX. PROVIDED, That where the mother of any such child as aforesaid do prove her charge, by sufficient testimony of witness, confession of the party charged, or pregnant circumstances, agreeing with her declaration in her extremity of her pains or throws of travail, and her oath taken by some magistrate before the time of her delivery of every such bastard child, or after her delivery, then the party charged, if a servant, shall satisfy half the said damage, if a free man, shall satisfy the whole damage by servitude or otherwise, as the court before whom such matter is brought as aforesaid, shall think fit; but if the said free man cannot be brought to justice, then, and in every such case she, shall make the same satisfaction as if she could not prove the begetter as aforesaid; and if any such mother as aforesaid be able to prove, by such testimony, or confession of the party charged, that he, being a single person and a free man, did, before the begetting of such child, promise her marriage, that then he shall be at his choice, either to perform his promise to her, or recompence her abuse according as the court before whom such matter is brought shall adjudge.

Proviso.

XXX. AND BE IT FURTHER ENACTED, *by the authority, advice and consent aforesaid,* That after the end of this session of assembly, it shall and may be lawful for the provincial and county courts of this province to hear and determine any complaints, between masters and servants, by way of petition, to give judgment and award execution upon the same; and that, upon appeal or writ of error brought upon the same from any county court of this province to the provincial court, or from the provincial court to the governor and council, no such judgment shall be reversed for want of judicial process, or that the same was not tried by a jury, or any matter of form either in the entry or giving judgment; provided that it appears by the record that the Defendant was legally summoned, and not condemned unheard.

Court may determine complaints, between masters and servants by way of petition.

XXXI. AND BE IT FURTHER ENACTED, *by the authority aforesaid,* That if any matter of dispute arises concerning servants imported into this province, or any servant that binds himself for years within this province, or any bound out by the county courts of this province, in relation to their indentures, contracts or wages, or any other matter of difference between the said master and servant, the same shall be tried, heard and determined, by petition as aforesaid, any law, statute or usage to the contrary notwithstanding.

All other disputes relating to indentures, contracts, &c. are also determinable by petition.

XXXII. AND BE IT ENACTED, *by the authority, advice and consent aforesaid,* That no negro or other slave within this province shall be permitted to carry any gun, or any other of-

Slaves not to carry guns, &c. from off their mas-

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ter's land
without
leave.

Servants
stealing to
be adjudged
felons, and
to pay four-
fold by ser-
vitude.

Persons ta-
ken up not
to be held
more than
six months.

fensive weapon, from off their master's land, without licence from their said master ; and if any negro or other slave shall presume so to do, he shall be liable to be carried before a justice of peace, and be whipped, and his gun or other offensive weapon shall be forfeited to him that shall seize the same and carry such negro so offending before a justice of peace.

XXXIII. AND BE IT ENACTED, *by the authority aforesaid, by and with the advice and consent aforesaid,* That from and after the end of this session of assembly, any servant or servants whatsoever within this province, that shall feloniously take or purloin his or their master, mistress or dame's goods or chattels, under the value of one thousand pounds of tobacco, shall be adjudged felony, and being thereof lawfully convicted in any county court of this province, shall be adjudged to pay four times the value of such goods so purloined, to his or their master, mistress or dame, which he, she or they shall make good by servitude, after the expiration of their first time of service, and shall also suffer such pains of whipping or pilloring as the justices before whom such matter is brought shall adjudge.

XXXIV. AND BE IT FURTHER ENACTED *by the authority, advice and consent aforesaid,* That when any person or persons (except negroes and mulattoes) shall be found travelling without passes as aforesaid, and shall be taken up as suspected run-aways, and by any justice of peace committed to the custody of any sheriff or gaoler within this province, it shall not be lawful for any such sheriff or gaoler to hold such person in custody longer than six months ; and if such person can, at any time within the said six months, procure a certificate or other justification that he or she is no servant, he or she shall and may, by order of any two justices of the county where such person is committed to prison, be discharged from any further imprisonment, he, she or they serving such sheriff or gaoler, or his assigns, so many days as he, she or they were in custody of such sheriff or gaoler, or otherwise paying ten pounds of tobacco per day to such sheriff or gaoler for their imprisonment fees, and no more, and paying unto such person or persons who took up such person two hundred pounds of tobacco, or serving him, her or them twenty days in lieu thereof ; and if any such sheriff or gaoler shall detain such person in prison after such order of two justices aforesaid, or the expiration of six months, and payment of ten pounds of tobacco per day as aforesaid, such sheriff or gaoler shall be liable to an action of false imprisonment, any law, statute or usage to the contrary notwithstanding.

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the same, That for the future it may and shall be lawful for any parish to hold their meetings for such affairs in any month of the year, as they shall judge most convenient for them.

And whereas it has hapned that in some parishes meetings have been held in some other months than the month of December, and several votes and acts passed in such meetings, the validity of which may be therefore questioned: For the preventing all such disputes,

It is hereby enacted by the authority aforesaid, That all such votes and acts, passed, made and done, in such parish meetings [367] in any other month, shall be held, accounted ¶ and esteemed good and valid as they should or could have been if the meeting [at which]* they were passed and made, had been holden in the month of December; any other law, usage or custom to the contrary notwithstanding.

This Assembly grant liberty and fully impower Daniel Hancox of Farmington, administrator on the estate of William Hancox, late of said Farmington, deceas'd, to sell so much of the real estate of the said deceas'd as may be sufficient to pay the sum of sixty-six pounds five shillings and ten pence, which is due from said estate more than the moveable estate will pay; with the direction and approbation of the court of probates in the county of Hartford.

Upon the prayer of the south society in Wethersfield, this Assembly grants the said society an exemption from one country rate, viz. that granted in October last; the said money to be by them improved for defraying parish charges among them; [and] that said society be called Stepney.†

An Act for preventing the Lending Guns, Ammunition, &c. to the Indians.

Whereas it may be justly suspected that some Indians in this Colony who borrowed guns and ammunition of the English do withdraw themselves for a time to the enemy Indians and joyn with them: And whereas the said Indians are generally supposed to be guilty (tho hardly it is to be proved) of killing many deer at times of the year forbidden by law,

Be it therefore enacted by the Governour, Council and Representatives, in General Court assembled, and by the authority of the same, That no person or persons within this Colony shall be allowed or admitted to prosecute before any assistant or justice of the peace, or court of judicature in this Colony, any

* Instead of the words within brackets, the record reads "were and." The correction is made on the authority of the printed act.

† The Assembly gave the society the name of *Lexington* at first: but changed it to Stepney upon the petition of sundry of the inhabitants, and in consideration that there was a *Lexington* in Massachusetts. *Ecclesiastical*, II., 182, 183.

action of debt, detinue, or other action whatsoever, for any gun or guns or ammunition, lent, sold or any ways trusted to any Indian or Indians whatsoever, till this Court shall see cause to order otherwise; and that every such gun lent as aforesaid shall be forfeited, one-half to him that shall prosecute to effect, the other to the county treasury where such prosecution is.

An Act for Compleating and Perfecting of the Line of Division between this his Majesties Colony of Connecticut and the Province of New York, which was begun and in Part fixed and established in the Years 1683 and 1684; the remaining Part of which Line, notwithstanding many Endeavours to have it run, and Monuments therein erected, in conjunction with the said Province, have been since used, [363] and Acts passed by the Assembly of this Colony, and by Virtue thereof Commissioners sent to attend that Service with such Commissioners as should be appointed by the Government of that Province for the same Service, continuing yet to be surveyed and fixed by Monuments to be erected therein.

Whereas the line of division between this his Majesties Colony of Connecticut and the Province of New York was, in the year 1683, by agreement between the governments of this Colony and the said Province of New York, removed from the place where it was anciently esteemed and known to be, and determined to be and forever to remain in another certain place, beginning at the mouth of a river famously known by the name of Byram River, by which alteration several towns erected by and belonging to the said Colony were added to and become part of the said Province of New York.

And whereas, pursuant to the said agreement, surveyours and commissioners appointed by the government of this Colony and that Province did, in the month of October, 1684, meet, and in conjunction survey and make and establish good and sufficient monuments in part of the said line, that is to say: beginning at a point called Lyon's Point, on the east side of the said Byram River, and continued the said line from thence up the said river one mile and an half and twenty rods to a great stone at the wading place where the road cuts the said river, and from thence on a north north-west course six miles and an half, and there marked three white oak trees with C. R. and some other marks and inscriptions, and from the said trees continued the said line upon an east north-east course twelve miles, (which eastern end of the twelve miles is in the said agreement appointed to be the place from whence a line run parallel to Hudson's River, and concluded to be at twenty miles distance from it, is to be run as far north as the south line of the Massachusetts Province,) should be the line of par-

C H A P. DLIV.

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An ACT for the further continuing the Currency of the Bills of Credit struck and issued in the Year One Thousand Seven Hundred and Twenty, to the Value of Five Thousand Ounces of Plate, during the Time therein mentioned.

See Chap. 532.
Expired 1st of
September, 1733.

Pass'd the 17th of October, 1730.

C H A P. DLV.

An ACT for the better clearing, regulating, and further laying out publick Highways in Kings County, Queens County, Richmond County, and Orange County.

Continued by
Chap. 581.

Pass'd the 29th of October, 1730.

C H A P. DLVI.

An ACT for naturalizing Herman Winkler, and other the Persons therein mentioned.

Private.

Pass'd the 29th of October, 1730.

C H A P. DLVII.

An ACT to prevent the Destruction of Sheep, by Dogs, in the City and County of Albany, the County of Westchester, the County of Suffolk, Queens County, Kings County, Richmond County, and Orange County.

Expired at the
End of the first
Sessions after the
29th of October,
1731. But provided
for by Chap.
774.

Pass'd the 29th of October, 1730.

C H A P. DLVIII.

An ACT for the Relief of insolvent Debtors within the Colony of New-York, with Respect to the Imprisonment of their Persons.

Expired at the
End of the first
Sessions after the
29th of October,
1731.

Pass'd the 29th of October, 1730.

C H A P. DLIX.

An ACT to prevent the taking or levying on Specialties, more than the principal Interest and Costs of Suit, and other Purposes therein mentioned.

Repealed by the
King, the 12th of
August, 1731.

Pass'd the 29th of October, 1730.

C H A P. DLX.

An ACT for the more effectual preventing and punishing the Conspiracy and Insurrection of Negroes and other Slaves; for the better regulating them, and for repealing the Acts therein mentioned, relating thereto.

Pass'd the 29th of October, 1730.

WHEREAS many Mischiefs have been occasioned by the too great Liberty allowed to Negro and other Slaves, and that some of the Acts relating thereto, are expired, and others not fully answering the good Purposes thereby intended, the General Assembly therefore pray it may be enacted;

Preamble.

I. And be it Enacted by his Excellency the Governor, the Council, and the General Assembly, and it is hereby Enacted by the Authority of the same, That no Person or Persons do hereafter, throughout this Colony, presume to trade or traffick with any Slave or Slaves, either in buying or selling, without Leave and Consent of the Master or Mistress of such Slave or Slaves, on Forfeiture of treble the Value of the Thing or Things traded for, and also the Sum of Five Pounds, current lawful Money, to the Master or Mistress of such Slave or Slaves,

Penalty on Per-
sons trading with
Slaves.

C c c

for

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for each Offence; to be recovered of such Person or Persons so trading, contrary to the true Intent and Meaning of this Act, by Action of Debt, in any Court of Record within this Colony, where such Sum or Sums is cognizable; and all Contracts and Bargains made with any Slave or Slaves, shall be utterly void.

Penalty on Persons for selling Strong Liquors to Slaves.

II. AND whereas, notwithstanding sundry Laws passed heretofore in this Colony, for the Purposes above mentioned, several evil-disposed Persons, having Nothing in View but their private Gain, do clandestinely trade and traffick with Slaves: For Remedy whereof, **Be it Enacted by the Authority aforesaid**, That if any Person or Persons within this Colony, shall, from and after the Publication of this Act, sell any Rum or other Strong Liquor, to any Negro, Indian, or Mulatto Slave or Slaves, or shall buy or take in Pawn from them, any Wares, Merchandizes, Apparel, Tools, Instruments, or any other Kind of Goods whatever, and shall thereof be accused by the Master or Mistress of such Slave or Slaves, or by any other Person or Persons, before any one Justice of the Peace in the City or County where the Offender shall dwell or reside, shall forfeit and pay the Sum of *Forty Shillings* for every such Offence, to be recovered with Costs, before the said Justice of the Peace, or before any other Justice dwelling where such Offence is committed; who is hereby strictly required and directed to hear, and finally to determine the same; unless the Person or Persons accused, as aforesaid, do take his, her, or their corporal Oath, (which Oath the said Justice is hereby impowered to administer) That he, she, or they, have not, either by themselves, or by any other Person or Persons on his, her, or their Behalf, directly or indirectly, sold, bought or taken in Pawn any of the Thing or Things of which he, she, or they shall be accused, in Manner as aforesaid; which Forfeiture shall be one Half to the Informer, the other Half for the Poor of the City, Town, Manor, or Precinct where such Offence is committed; and upon Non-payment of the above-mentioned Penalty, the offending Party or Parties, shall be, by the said Justices, committed to the common Goal, there to remain for the Space of twenty Days, unless the said Penalty be sooner paid.

Slaves may be punished by their Masters or Owners.

III. And be it further **Enacted by the same Authority**, That hereafter it shall and may be lawful for any Master or Mistress to punish his, her, or their Slave or Slaves, for their Crimes and Offences, at Discretion, not extending to Life or Limb.

Not above three Slaves to meet together.

IV. AND forasmuch as the Number of Slaves in the Cities of *New-York* and *Albany*, as also within the several Counties, Towns and Manors within this Colony, doth daily increase, and that they have been often-times guilty of confederating together in running away; and of other ill and dangerous Practices: **Be it therefore Enacted by the aforesaid Authority**, That it shall not hereafter be lawful for above three Slaves to meet together at any Time, nor at any other Place, than when it shall happen they meet in some servile Employment, for their Masters or Mistresses Profit, and by their Masters or Mistresses Consent, upon Penalty of being whipt upon the naked Back, at the Discretion of any one Justice of the Peace, not exceeding forty Lashes for each Offence.

East Town and Manors may appoint a common Whipper for their Slaves.

V. And be it further **Enacted by the same Authority**, That it shall and may be lawful hereafter, for every City, Town and Manor within this Colony, to have and appoint a common Whipper for their Slaves; and for his Salary, it shall and may be lawful for any City, Town, or Manor within this Colony, at their Common-Council or Town-Meeting, to agree upon such Sum to be paid him, by the Master or Mistress of Slaves, not exceeding the Sum of *Three Shillings per Head*, for all such Slaves as shall be whipt, as aforesaid; and upon Neglect

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Neglect or Refusal of the Master or Mistress, to pay the Sum so agreed upon, as above, that then such Slave or Slaves shall be committed until Payment be made, with Costs. And in Case any Slave shall presume to assault or strike any Christian or Jew, it shall be in the Power of any two Justices of the Peace, who, by this Act, are hereunto authorised, to commit such Slave or Slaves to Prison, not exceeding fourteen Days for one Fact, and to inflict such other corporal Punishment, not extending to Life or Limb, upon him, her or them, so offending, as to the said Justices shall seem meet and reasonable.

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Punishment of
Slaves for striking
a white Man.

VI. And be it further Enacted by the Authority aforesaid, That no Person or Persons whatsoever, do hereafter employ, harbour, conceal or entertain other Men's Slave or Slaves, at their House, Out-house, or Plantations, without the Consent of his, her, or their Master or Mistress, upon the Forfeiture of *Five Pounds* for every twenty-four Hours, (and so proportionably for a less Time they are so concealed or entertained) to the said Master or Mistress of such Slave or Slaves, so that the Penalty for entertaining such Slave, do not exceed the Value of such Slave. And if any Person or Persons whatsoever, shall be found guilty of harbouring, entertaining, or concealing of any Slave or Slaves, or assisting to the conveying him, her, or them away; if such Slave shall happen to be lost, dead, or otherwise destroyed, such Person or Persons so harbouring, entertaining, concealing, assisting, or conveying them away, shall be also liable to pay the Value of such Slave or Slaves, to the Master or Mistress; to be recovered by Action of Debt, in any Court of Record.

Penalty for
entertaining of
Slaves.

VII. AND whereas it often happens, that through the Lenity of the Master, or Person under whose Care the said Negroes or Slaves are, the Persons so entertaining and dealing with them, are forgiven, and not brought to condign Punishment, to the very great Hurt, not only of the said Masters, but of other his Majesty's liege People, owning Negroes and other Slaves: *Be it therefore Enacted by the Authority aforesaid*, That if any Master or Mistress, or Person under whose Care any Negro or other Slave is, shall forgive, make up, compound, compromise, or receive or take any other or less Consideration than is by this Act prescribed, shall forfeit double the Sum the said Person or Persons so entertaining, ought to have forfeited; to be recovered in any Court of Record within this Colony, by Action of Debt, Bill, Complaint or Information, wherein there shall be no Effoin, Protection, Wager of Law, or any more than one Imparance allowed, one Half thereof to any Person that shall sue for the same, the other Half to his Majesty, his Heirs and Successors, for and towards defraying the publick Charge of the City, Town, Borough, Manor or Precinct in which the Master, Mistress, or Person under whose Care the said Negroes or other Slaves are, doth dwell or inhabit.

Penalty on
Masters, &c. if
they compound
for their Slaves
Crimes.

VIII. *Be it also further Enacted by the same Authority*, That if any Person or Persons knowing of such Entertainers of Slave or Slaves, and does not discover the same to the Master, Mistress, or Person under whose Care the said Slave or Slaves are, or to some one Justice of the Peace, or being suspected to know, upon Complaint, doth not discover the same, or upon Tender of an Oath before any Justice of the Peace, before whom such Complaint shall come, (who is hereby authorised to administer the same) shall refuse to take such Oath, and purge him, her, or themselves; the said Person or Persons so neglecting or refusing to discover or take the said Oath, shall forfeit the Sum of *Forty Shillings*, to be immediately, after Conviction, levied upon his, her or their Goods and Chattels, to the Use of the Person or Persons who shall inform or complain; and in Case there be no Goods and Chattels, then the Body of the Person or Persons offending, shall be committed to Goal, till he, she, or they pay and satisfy the said Sum of *Forty Shillings*, and Charges accruing thereon;

Penalty on
Persons that do
not discover those
that entertain
Slaves.

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thereon ; and if it afterwards appear, that any Person or Persons, who, by the Directions in this Act, are in any Case obliged to purge him, or her, or themselves by their Oath, have sworn falsely ; such Person or Persons so offending, shall incur the like Pains and Penalties as those who are found guilty of willful Perjury, and be prosecuted accordingly.

Penalty on free
Negroes, &c. that
entertain Slaves.

IX. AND whereas there are many Negroes, Indians and Mulattoes, who have formerly been manumitted, and made free within this Colony, by their Masters or Owners ; and it is found by Experience, that they entertain, harbour, support, and encourage Negro, Indian and Mulatto Slaves, to the great Damage and Detriment of the Masters or Owners of Slaves, and of other of his Majesty's liege Subjects within this Colony ; *Be it therefore Enacted by the Authority aforesaid*, That if any Negro, Indian or Mulatto, made, or born free, or to be made free hereafter, shall knowingly and wittingly entertain any Slave or Slaves absenting himself or themselves, from his, her or their Masters or Mistresses Service, without Leave first given and signified, as aforesaid, or without the Master, or Person under whose Care the said Slave is, be present ; the said Negro, Indian or Mulatto, so offending, shall be forthwith apprehended, and forfeit the Sum of *Ten Pounds*, for every Night or Day they are so entertained, to the Master or Mistress of such Slave or Slaves ; to be recovered by Action of Debt, as aforesaid.

Slaves that are
set free, shall give
Security.

X. And be it further *Enacted by the same Authority*, That if any Master or Mistress, shall manumit and set at Liberty, any Negro, Indian or Mulatto Slave ; and such Master or Mistress, so manumitting and setting at Liberty, or any other sufficient Person, for and on Behalf of such Negro, Indian or Mulatto Slave, shall do and enter into a Bond unto his Majesty, his Heirs and Successors, with two Sureties, in a Sum not less than *Two Hundred Pounds*, at the General Sessions of the Peace, for the County where such Negro, Indian or Mulatto Slave, shall live or reside, to keep and save such Negro, Indian or Mulatto Slave, from becoming or being any Charge to the City, Town, Parish or Place within this Colony, where he, she or they, shall at any Time after such Manumission, live ; the said Negro, Indian or Mulatto, shall be free, according to such Manumission of the Master or Mistress, so manumitting and setting at Liberty, such Slave or Slaves : And if any Negro, Indian or Mulatto Slave, shall have been made free, or hereafter shall be made free, by the Will or Testament of any Person deceased ; that then, if any Executor or Executors, of any Person or Persons deceased, or on their Neglect or Refusal, any other sufficient Person, for and on the Behalf of such Negro, Indian or Mulatto Slave, shall and do enter into such Security, as aforesaid, at the General Sessions of the Peace for the County, where such Negro, Indian or Mulatto Slave, shall live or reside, to keep and save such Negro, Indian or Mulatto Slave, from becoming or being any Charge to the City, Town, Parish or Place within this Colony, where he, she or they, shall at any Time after such Manumission, live ; the said Negro, Indian or Mulatto Slave, shall be free, according to the true Intent and Meaning of the Will or Testament of any Person or Persons deceased : And if Security be not given in Manner aforesaid, such Manumission or Devise, as before mentioned, shall be void, and of none Effect ; any Usage or Custom to the contrary notwithstanding.

XI. AND whereas Slaves are the Property of Christians or Jews, and cannot, without great Loss or Detriment to their Masters or Mistresses, be subjected in all Cases criminal, to the strict Rules of the Laws of *England* ; *Be it Enacted by the Authority aforesaid*, That hereafter, if any Slave or Slaves, by Theft or other Trespas, shall damnify any Person or Persons, to the Value of *Five Pounds*, or under ; the Master or Mistress, of such Slave or Slaves, shall be liable to make

JOHN MONTGOMERIE, Esq; Governor.

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make Satisfaction for such Damages, to the Party injured ; to be recovered by Action of Debt, in any Court having Jurisdiction and Cognizance of Pleas to that Value ; and the Slave or Slaves shall receive corporal Punishment, at the Discretion of any one Justice of the Peace, and immediately thereafter (the Master or Mistress having first paid the Charges of such Punishment) be permitted to attend his or her Master or Mistress's Service, without further Punishment.

XII. And be it further Enacted by the Authority aforesaid, That hereafter no Slave or Slaves shall be allowed as Evidence or Evidences, in any Matter, Cause, or Thing whatsoever, excepting in Cases of Plotting or Confederacy among themselves, either to run away, kill or destroy their Master, Mistress, or any other Person ; or burning of Houses, Barns, Barracks, or Stacks of Hay, or of Corn ; or the killing of their Master or Mistresses Cattle or Horses ; and that only against one another ; in which Cases the Evidence of one Slave shall be allowed good against another Slave.

XIII. And be it further Enacted by the same Authority, That all and every Negro, Indian, or other Slave or Slaves, who, after the Publication of this Act, shall murder or otherwise kill, unless by Misadventure, or in the Execution of Justice, or conspire or attempt the Death of any of his Majesty's liege People, not being Slaves ; or shall attempt or commit any Rape, on any of the said Subjects ; or shall willfully burn any Dwelling-House, Barn, Stable, Out-house, Stacks of Corn or Hay ; or shall willfully mutilate, mayhem, or dismember any of the said Subjects, not being Slaves, as aforesaid ; or shall willfully murder any Negro, Indian, or Mulatto Slave ; within this Colony ; and shall thereof be convicted before three or more of his Majesty's Justices of the Peace, for the County where such Fact shall be committed, one whereof to be of the *Quorum*, who are hereby authorised to hear and determine the same, in Conjunction with five of the principal Freeholders of the County, without a Grand Jury, seven of whom agreeing, shall put their Judgment in Execution, according to this Act ; or before any Court of Oyer and Terminer, or general Goal-Delivery ; he, she, or they, so offending, shall suffer the Pains of Death, in such Manner, and with such Circumstances, as the Aggravation or Enormity of their Crimes, in the Judgment of the Justices of those Courts aforesaid, or as in the Judgment of seven of the said Justices and Freeholders, shall merit and require.

XIV. Be it further Enacted by the Authority aforesaid, That upon Complaint made to any one Justice of the Peace, against any Negro, Indian, or Mulatto Slave or Slaves, who have, or are supposed to have committed any of the Murders, Rapes, Mayhems, Insurrections or Conspiracies, mentioned in this Act, the said Justice is immediately to issue his Warrant to the next Constable, to apprehend the said Offender or Offenders, and for all or any Person or Persons to come before him, that can give Evidence ; and if, upon Examination, it appears, that the Slave or Slaves apprehended, are guilty, he shall commit him, her, or them to Prison ; and also shall certify to the two next Justices of the Peace, the said Cause, and require them, by Virtue of this Act, to associate themselves to him ; which the said Justices are hereby required to do ; and they, so associated, are to issue their Summons to five Freeholders, acquainting them with the Cause, and appointing them the Time and Place the same shall be heard and determined ; at which Time and Place, the Justices are hereby impowered to appoint some Person to prosecute the said Offender or Offenders ; and the Person so appointed, shall prefer an Accusation in Writing, specifying the Time, Place, and Nature of the Offence, as near as conveniently may be ; to which Accusation the Offender or Offenders shall be obliged to plead ; and upon Refusal to plead, the like Judgment shall be given against such Slave or Slaves, so accused, as if convicted by Verdict or Confession ;

D d d

4th GEORGE II.
A. D. 1730.

The Owners of Slaves shall make good the Trespasses their Slaves commit.

Evidence of Slaves not to be allowed, except against other Slaves.

Trial and Punishment of Slaves that commit Murder, &c.

On Complaint, one Justice may commit Slaves to Goal, and with other Justices and Freeholders proceed to Trial for high Crimes.

and

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4th GEORGE II.
A. D. 1730.

and upon pleading thereto, the Justices shall proceed to Trial, in Conjunction with the said Freeholders, so summoned, as aforesaid; to which Freeholders no peremptory Challenge shall be allowed; and if, upon hearing the Matter, (the said Freeholders being first sworn by the said Justices, to judge according to Evidence) they shall adjudge such Slave or Slaves, guilty of the Offence complained of, they shall give Sentence of Death upon him, her, or them, as aforesaid; and, by their Warrant, cause immediate Execution to be done by the common or any other Executioner, in such Manner as they shall think fit.

Slaves may be
tried by a Jury, if
the Master desire
it.

XV. *Provided always, and it is hereby further Enacted by the Authority aforesaid,* That if any Master or Mistress of any Slave or Slaves, be inclined to have his, her, or their Slave or Slaves, tried by a Jury of twelve Men, it shall be granted; such Master or Mistress paying the Charge of the same, not exceeding *Nine Shillings* to the Jury; and in such Case there shall a Precept be issued by the Justices, to the next Constable, to summon a Jury of twelve Men, who shall be sworn to try according to Evidence; and the Justices shall proceed to Trial, by the said Jury, summoned and sworn, as aforesaid, without a Grand Jury, to which Jurors no peremptory Challenge shall be allowed.

How the Charge
of prosecuting
Slaves is to be
defrayed.

XVI. *And be it further Enacted by the Authority aforesaid,* That the Charge of prosecuting and executing of Negroes and other Slaves, in Manner before expressed, shall be paid and defrayed by the City or County where such Negro or Slaves shall be convicted and executed, and be laid, assessed and levied in the same Manner as the publick and necessary Charge of such City or County, are, or used to be raised, and to be distributed by the Order and Direction of the Justices hereby impowered to hear and determine the Crimes of such Negro or other Slaves, offending, as aforesaid, so as that the said Charge shall not exceed the Sum of *Three Pounds*, current Money of this Colony, for each Conviction and Execution.

How the Owners
of the Slaves exe-
cuted, are to be
paid.

XVII. *And be it further Enacted by the Authority aforesaid,* That the Owner or Owners of a Slave or Slaves, so executed, in the City and County of *Albany*, or in any of the other Counties within this Colony, shall be paid for the same, in the like Manner as the Charges for Prosecution and Execution is, by this Act, directed to be assessed, levied, and paid; *Provided* the Value of such Slave does not exceed the Sum of *Twenty-five Pounds*, current Money of this Colony.

How the Charge
of the Trial of
Slaves shall be
paid in the City
of New-York.

XVIII. *And be it further Enacted by the same Authority,* That in the City and County of *New-York*, the Justices of the Peace of the said City, for the Time being, or the major Part of them, do take effectual Care, in Case such Conviction and Execution happen within their Jurisdiction, that such Charge, as aforesaid, be raised, levied, and collected in the same Manner as is directed in an Act, entitled, *An Act for settling a Ministry, and raising a Maintenance for them in the City of New-York, County of Richmond, Westchester, and Queens County*, passed in the fifth Year of their late Majesties, King WILLIAM and Queen MARY; and that the same shall be paid into the Hands of the Treasurer or Chamberlain of the said City, for the Time being, who is hereby required to pay the same by Order and Direction of the Justices hereby impowered to hear and determine the Crimes of such Slave or Slaves, offending, as aforesaid, so as the Charge of each Conviction and Execution shall not exceed the Sum of *Three Pounds*, current Money of this Colony.

Slaves executed
in the City of
New-York, how
to be paid for.

XIX. *And be it further Enacted by the same Authority,* That the Owner or Owners of such Slave or Slaves, which shall happen to be executed by Virtue of this Act, in the City and County of *New-York*, shall be paid for the same, and the Money shall be assessed, collected and paid, as in and by this Act, the Justices of the Peace for the said City and County, are directed and impowered to levy, pay

pay and discharge the Prosecution and Execution of Slave or Slaves; *Provided* the Price to be paid for each Slave, so executed, do not exceed the Sum of *Twenty-five Pounds*, current Money of this Colony.

4th GEORGE II.
A. D. 1730.

XX. And be it further Enacted by the Authority aforesaid, That it shall not be lawful for any Slave or Slaves, to have or use any Gun, Pistol, Sword, Club, or any other Kind of Weapon whatsoever, but in the Presence or by the Direction of his, her, or their Master or Mistress, and in their own Ground, on Penalty of being whipt for the same, at the Discretion of the Justice of the Peace, before whom such Complaint shall come, or upon the View of the said Justice, not exceeding twenty Lashes on the bare Back, for every such Offence.

Penalty on Slaves
that carry Arms.

XXI. And be it further Enacted by the Authority aforesaid, That every such Justice of the Peace, Constable, Assessor, Collector, or any other Officer, as do neglect, delay, or refuse the several Duties and Services hereby enjoined to be respectively done and performed by them, shall, for every such Offence, forfeit the Sum of *Forty Shillings*: And every Freeholder, summoned, as aforesaid, and neglecting or refusing to serve, shall forfeit the Sum of *Twenty Shillings*; which Penalty or Penalties shall be recovered before any two Justices of the Peace, dwelling in the City or County where such Neglect, Delay, or Refusal shall happen; to be levied on the Goods and Chattels of the Offender, by a Constable, by Warrant from such Justices; who are hereby empowered and directed, upon such Neglect, Delay, or Refusal, to issue their Warrant for levying the same; and one Half of such Penalty shall be for the Use of the Prosecutor, and the other Half for the Use of the Poor of the Place where such Penalty shall be levied.

Penalty on Of-
ficers that neglect
their Duty.

XXII. AND for preventing Doubts, Scruples, or Confusions, concerning the several Acts of General Assembly heretofore passed, in Relation to Slaves, *Be it Enacted by the Authority aforesaid*, That all and every the following Acts, and every Clause, Article and Thing therein, or in the Acts for the Continuance or Revival thereof, shall, after the Publication of this Act, be, and are hereby repealed, and made null and void, *That is to say*; an Act, entitled, || *An Act for regulating Slaves*, passed in the first Year of the late Queen ANNE; an Act, entitled, † *An Act for preventing the Conspiracy of Slaves*, passed in the seventh Year of the said Queen; § *An Act for preventing, suppressing, and punishing the Conspiracy and Insurrection of Negroes, and other Slaves*, passed in the eleventh Year of her said late Majesty; and an Act, entitled, † *An Act for explaining and rendering more effectual, an Act of the General Assembly of this Colony, entitled, An Act for preventing, suppressing, and punishing the Conspiracy and Insurrection of Negroes and other Slaves*, passed in the * *third Year* of King GEORGE the First.

Acts repealed;

C H A P. DLXI.

An ACT to defray the Charge of victualling his Majesty's Troops posted at Oswego, and for other the Purposes therein mentioned.

Obsolete;

Pass'd the 29th of October, 1730.

C H A P. DLXII.

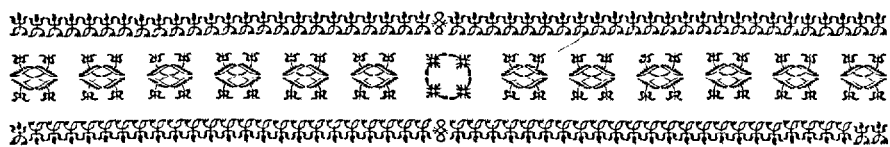
An ACT for paying Richard Bradley, Esq; One Hundred and Fifty Pounds; and Henry Beckman, Esq; the Sum of Seventeen Pounds Ten Shillings, for the Consideration, and in the Manner therein mentioned.

Private;

Pass'd the 29th of October, 1730:

C H A P.

A. D. 1753.



ANNO REGNI
G E O R G I I II.
R E G I S,
MAGNÆ BRITANNIÆ, FRANCIÆ, & HIBERNIÆ,
VICESSIMO SEXTO.

At a General ASSEMBLY, begun and held at *Newbern*, the Twenty
Seventh Day of *March*, in the Year of our Lord One Thousand Seven
Hundred and Fifty Three.

MATTHEW
ROWAN, Esq;
President.

CHAP. I.

An Act to prevent excessive and deceitful Gaming. EXP.

CHAP. II.

*An Act for appointing and laying out a Town on Core Banks, near Ocacock Inlet, in
Carteret County, and for appointing Commissioners for compleating the Fort at or near
the same Place.*

I. **W**HEREAS the Trade of this Province is greatly obstructed by Reason
of the Shoals which lay within *Ocacock Inlet*, so that the Merchants and
other Traders are obliged to employ small Vessels, in lightening others of greater
Burthen over the Swatch, which is not only very expensive, but also very danger-
ous, for Vessels of large Burthen laying at the Swatch, during the Time they are
so lightening over it, notwithstanding Ships of very great Burthen may with great
Safety come over *Ocacock Inlet*, and commodiously ride at Anchor in the Harbour
adjoining *Core Banks*: And as it is found, by Experience, that the Merchants trad-
ing in *Albemarle County*, *Pamlico*, and *Neuse Rivers*, are obliged to send down to
Ocacock Inlet or *Core Banks*, sometimes the whole, and almost always one Half of
the Loading of their Vessels, of any considerable Burthen, so that it is absolutely
necessiary to have Warehouses and other Conveniences on the said Banks, near the
said Harbour, for the Reception and safe-keeping of the Commodities they are con-
stantly obliged to send down, for compleating the Loading of their Ships:

Private.

II. WE therefore pray it may be Enacted, *And be it Enacted, by the Honourable
Matthew Rowan, Esq; President, by and with the Advice and Consent of his Majesty's
Council,*

A. D. 1753.
Commissioners
appointed for lay-
ing out the Town.

Council, and the General Assembly of this Province, and by the Authority of the same, That it shall and may be lawful for Mr. *Joseph Bell*, of *Carteret County*, Mr. *John Williams*, and Mr. *Joseph Leech*, of *Newbern Town*, Mr. *Michael Coutanch*, of *Bath Town*, Mr. *John Campbell*, of *Edenton*, or any Three of them, who are hereby appointed Commissioners, with full Power and Authority to lay out Fifty Acres of Land on *Core Banks*, most convenient to the said Harbour, adjoining the said Banks, for a Town, by the Name of *Portsmouth*, into Lots of Half an Acre each, with convenient Streets, as they may think requisite.

And granting
Lots.

III. *AND be it Enacted, by the Authority aforesaid,* That when the Commissioners aforesaid, or the major Part of them, have so laid out the Town in Manner aforesaid, every Person whatsoever who is willing to be an Inhabitant of the said Town, shall have Liberty to take up any Lot or Lots of Land so laid out as aforesaid, and not before taken up, which Lot or Lots the Commissioners, or the Majority of them, are hereby impowered and directed to grant, convey, and acknowledge, by Deed, to the Person or Persons so taking up the same, and his or their Heirs and Assigns, for ever, in Fee Simple, upon the Payment of Twenty Shillings, Proclamation Money.

Treasurer ap-
pointed,

IV. *AND be it further Enacted,* That Mr. *Joseph Bell* be, and is hereby appointed Treasurer and Receiver of all such Monies which shall arise by the Sale of the said Lots, for the Use of *John Kersey*, the now Proprietor of the said Land, his Heirs and Assigns; and on the Death, or Departure out of this Government, of the said Treasurer, or any one of the before mentioned Commissioners, that the said Commissioners, or the Majority of them, shall appoint some other Person (in the Place of the said Treasurer or Commissioner so dead or departed) in the Place or County where the said Treasurer or Commissioner so dead or departed did reside.

Who is to give
Security.

V. *AND be it further Enacted, by the Authority aforesaid,* That the Treasurer herein appointed, and every Treasurer to be chosen or elected by Virtue of this Act, shall give Security to the County Court of *Carteret*, that he shall and will, from Time to Time, account and pay in all the Monies he shall receive, by the Sale of all and every Lot or Lots that shall be sold in each Year, on the Twenty Fifth Day of *March* yearly, to the said *John Kersey*, his Heirs or Assigns.

Lots to be saved
in 18 Months.

VI. *PROVIDED,* That if any Lot or Lots of Land shall be granted and conveyed by the said Commissioners, to any Person or Persons whatsoever, who shall not, within Eighteen Months after the said Conveyance, build a good, substantial, habitable framed or Brick House, or a good substantial Warehouse, of not less Dimensions than Twenty Feet in length, and Sixteen Feet wide, such Grant or Conveyance shall be void and of none Effect, as if the same had never been made; and the Commissioners may and shall grant and convey such Lot or Lots to any other Person or Persons applying for the same, on their paying the Money for the said Lot or Lots, as is in this Act before directed, for the Use of the said *John Kersey*, Proprietor of the said Land, his Heirs or Assigns aforesaid.

Money granted
for building a
Fort.

VII. *AND* whereas the said Town will be a maritime Town, far distant from the Bulk of the Inhabitants of this Province, and liable to the Depredations of an Enemy in Time of War, and Insults from Pirates and other rude People in Time of Peace; *Be it therefore further Enacted,* That the Sum of Two Thousand Pounds, Proclamation Money, heretofore appropriated for building a Fort or Fortification at or near *Ocacock Inlet*, by an Act of Assembly, intituled, *An Act for granting unto his Majesty the Sum of Twenty One Thousand Three Hundred and Fifty Pounds, Proclamation Money, and for stamping and emitting the said Sum*, deposited in the Hands of the Treasurer of the Northern District, be, and is hereby appropriated towards discharging the Expences of building and erecting the said Fort or Fortification.

VIII. *AND be it further Enacted, by the Authority aforesaid,* That the Commander in Chief for the Time being, the Honourable *Francis Corbin*, and *John Risselfett*,

Rieuftett, Esquires, Mr. Joseph Bell, Mr. John Williams, Mr. Joseph Leech, Mr. Michael Coutanch, and Mr. John Campbell, be, and are hereby nominated Commissioners, in the Place and Stead of the Commissioners nominated in the aforesaid Act, to compleat and finish the said Fort or Fortification; and they, or the Majority of them, shall be, and are hereby invested with all the Powers and Authorities given to the Commissioners in the before mentioned Act, nominated and appointed for building the same; and that the said Fort shall be called Fort Granville.

A. D. 1753.

CHAP. III.

An Act to revive and continue a Clause in an Act of the General Assembly of this Province, intituled, An Act to fix a Place for the Seat of Government, and for keeping Public Offices; for appointing Circuit Courts, and defraying the Expence thereof; and also for establishing the Courts of Justice, and regulating the Proceedings therein. E X P.

CHAP. IV.

An Act to relieve such Persons that have, or may suffer, by the Loss of the Records in Onslow County.

I. **W**HEREAS by a violent Storm or Whirlwind, in September last past, the House of Mr. *Thomas Black*, late Clerk of the Court for the County of *Onslow*, together with the Court-Houle, and most of the Records belonging to the County Court, were blown away and destroyed, whereby the Estates of many Orphans and other Persons may be very much perplexed and prejudiced: For Remedy whereof,

Preamble.

II. *BE it Enacted, by the Honourable Matthew Rowan, Esq, President, by and with the Advice and Consent of his Majesty's Council, and the General Assembly of this Province, and by the Authority of the same, That from and after the passing of this Act, the Copy of any Judgment, Order, Settlement of Orphans and their Estates, or other Record of any Matter or Thing transacted or done in the County Court of Onslow, attested under the Hand of the Clerk who recorded the same (in such Cases where the Original is lost or destroyed) shall and may be given in Evidence in any Dispute or Controversy, or in any Court whatsoever, and shall have the same Weight and Credit given to it as the original Record might, or ought to have, could it have been produced.*

Copy of Records to be given in Evidence.

III. *AND be it further Enacted, by the Authority aforesaid, That where Persons have neglected taking Copies from the Clerk's Office, or may have lost them, and are desirous to perpetuate the Memory of such Judgments, Order, Probat of a Will or Deed, Disposal of, or Settlement of Orphans Estates, or any other Matter or Thing transacted and done in the said County Court, it shall and may be lawful, upon due Proof made in open Court, to the Satisfaction of the Justices of such Court, at any Time within Two Years next ensuing the passing of this Act, to cause the same to be entered on Record by the Clerk of the Court, in a particular Book for that Purpose, and therein shall recite the Witnesses proving the same, and that the original Record was lost in the Storm; for which Service he shall be allowed a sufficient Reward, at the Discretion of the Justices of the County Court, to be paid out of the County Tax.*

Where Copies of Records are lost, Clerk to record them, on due Proof made to the Court.

IV. *AND be it further Enacted, That such Record, so made, shall and may, at all Times hereafter, be pleaded and given in Evidence, and have the same Authority in any Cause or Court whatsoever, as the Original would have, could it have been produced.*

Such Records deemed good.

V. *AND*

A. D. 1753.

Court not held in Johnston, to be no Error in Proceedings.

V. A N D whereas since the Storm, for Want of Houses and Accommodations, the Court could not be held at *Johnston*; *Be it Enacted*, That it shall not be deemed or adjudged Error in any Proceedings, or other Public Business, transacted in the said Court or County of *Onslow*, by Reason the same hath not been held, or hereafter shall not be held and transacted in the Town of *Johnston*, until a new Court-House shall be built for the said County, in the Town of *Johnston*; and that the same shall be built within Two Years from the passing hereof.

C H A P. V.

An Act to prohibit the Exportation of Grain in Time of Scarcity. E X P.

C H A P. VI.

An additional Act to an Act concerning Servants and Slaves.

Preamble.

I. W H E R E A S by an Act, intituled, *An Act concerning Servants and Slaves*, among other Things, it is provided, that no Slave shall go armed with Gun, Sword, Club, or any other Weapon, or shall keep any such Weapon, or shall hunt or range in the Woods with a Gun, upon any Pretence whatsoever, except such Slave or Slaves who shall have a Certificate, as in the said Act is provided; and whereas the Remedy in the said Act provided has proved ineffectual to restrain many Slaves in divers Parts of this Province from going armed, which may prove of dangerous Consequence: For Remedy whereof,

Slaves not to hunt with a Gun unless their Owners give Security for their Behaviour.

II. W E pray it may be Enacted, *And be it Enacted, by the Honourable Matthew Rowan, Esq; President, by and with the Advice and Consent of his Majesty's Council, and the General Assembly of this Province*, That from and after the passing of this Act, no Certificate shall be signed by any Chairman of any County Court in this Province, allowing any Slave to carry a Gun and hunt in the Woods, unless the Master, Mistress, or Manager of such Slave, shall first enter into Bond, with sufficient Security, to the County Court, either before, or at the Time such Certificate shall be given, for the good and honest Behaviour of such Slave; which Bond may be assigned over to any Person or Persons who shall be injured by such Slave; which Assignee shall and may maintain an Action thereon, and recover such Damages as he or she shall or may sustain by such Slave, in any Court of Record in this Province, by Action of Debt, Bill, Complaint, or Information; wherein no Effoin, Injunction, Protection, or Wager of Law, shall be allowed or admitted of.

In what Cases Slaves may carry Guns.

III. A N D be it further Enacted, That no Slave shall have or carry a Gun in any Plantation where Crop is not tended, nor more than one in any Plantation where there is Crop tended, nor after Crop is housed: And the Master, Mistress, or Overseer of any Slave, with whom shall be found any Gun, Sword, or other Weapon, contrary to the true Intent and Meaning of this and the before recited Act, shall forfeit and pay, to the Person finding the same, the Sum of Twenty Shillings, Proclamation Money; to be recovered by a Warrant before any one Justice of the Peace for the County where the Offence shall be committed, any Punishment inflicted on the Slave, Forfeiture of the Gun, Sword, or other Weapon, notwithstanding; unless such Master, Mistress, or Overseer, shall, by their own Oath, or other Proof, make appear that such Slave carrying a Gun, Sword, or other Weapon, was without their Consent or Knowledge.

Court to appoint Searchers.

IV. A N D be it further Enacted, That the Justices of each County Court, when and where they judge it necessary, shall divide their respective Counties into Districts, and yearly, at the first Court to be held for their Counties respectively after the first Day of May, shall appoint three Freeholders in each District as Searchers, who shall take the following Oath, *viz.*

I A. B. do swear that I will, as Searcher for Guns, Swords, and other Weapons, among the Slaves in my District, faithfully, and as privately as I can, discharge the Trust reposed in me, as the Law directs, to the best of my Power. A. D. 1753.
Their Oath.

SO HELP ME GOD.

Which Searchers shall four Times in a Year, or oftener if they think necessary, search and examine the Quarters and other Places where Negroes resort in their District, for any Gun, Sword, or other Weapon, and upon finding any of the said Weapons, are hereby required to seize the same, and convert them to their own Use, as by the afore-recited Act is directed. Who are to search Negro Quarters.

V. AND be it further Enacted, That any Person appointed Searcher as afore-said, who shall neglect or refuse to act, shall forfeit and pay the Sum of Forty Shillings, Proclamation Money, to such Person who shall next succeed him; to be recovered as other Fines in this Act mentioned. Pen. on Searcher refusing to act.

VI. AND for the Encouragement of such Searchers faithfully to execute their Office, Be it further Enacted, by the Authority aforesaid, That each and every Searcher shall, as to his own Person, be, during the Time of his Continuance in his Office, exempted from serving as a Constable, or upon the Roads, or in the Militia, or as a Juror, and shall not be obliged to pay any Provincial, County, or Parish Tax, of what Kind or Nature soever. Searchers Privileged.

VII. PROVIDED always, That no Person but such as are liable to be appointed Constables, shall be obliged to serve as Searchers; any Thing in this Act, to the contrary, notwithstanding. Who may be appointed Searchers.

VIII. AND be it Enacted, by the Authority aforesaid, That no Slave shall hunt or range in the Woods with a Dog or Dogs, except such as shall have a Certificate for hunting, obtained as is in this Act directed: And if any Slave shall be found offending herein, it shall and may be lawful for any Person or Persons to kill and destroy the said Dog or Dogs, and to bring the said Slave before the next Magistrate, who shall, on due Proof of his Offence, order the said Slave such Correction as he shall judge reasonable, not exceeding Thirty Lashes. Penalty on Slaves hunting with Dogs.

IX. AND be it further Enacted, by the Authority aforesaid, That if any Slave or Slaves shall be killed on Outlawry, or shall commit any Crime or Misdemeanor for which he, she, or they, shall be capitally convicted, the Owner of such Slave or Slaves so outlawed or executed, shall be debarred all Claim on the Public for the Value of such Slave or Slaves, and the Justices of the County Court and Freeholders, who shall value the Slave or Slaves so killed, or sit on the Trial of such Slave or Slaves so capitally convicted, shall not make any Certificate of the Value of the same, unless it shall be made appear, on Motion for such Certificate, by the Owner, or some other Person, that such Slave or Slaves, killed on Outlawry, or capitally convicted, shall have been sufficiently clothed, and shall likewise have constantly received, for the preceding Year, an Allowance, not less than a Quart of Corn per Diem. In what Cases outlaw'd or convicted Slaves shall be paid for.

X. AND be it Enacted, by the Authority aforesaid, That in Case any Slave or Slaves, who shall not appear to have been clothed and fed according to the Intent and Meaning of this Act, shall be convicted of stealing any Corn, Cattle, Hogs, or other Goods whatsoever, from any Person not the Owner of such Slave or Slaves, such injured Person shall and may maintain an Action of Trespas against the Master, Owner, or Possessor of such Slave, in the General or County Court, and shall recover his or her Damages, with Costs of Suit; any Law, Usage, or Custom, to the contrary, notwithstanding. Slaves not fed according to this Act, stealing Corn, &c injured Person to sue the Owner for Trespas.

A. D. 1752.

This Act repealed, but the Bounds of Rowan County re-established by Act, Sept. 1756, Ch. 22.

C H A P. VII.

An Act for erecting the upper Part of Anson County into a County and Parish, by the Name of Rowan County, and St. Luke's Parish; and for appointing a Place for holding a Court in the said County.

C H A P. VIII.

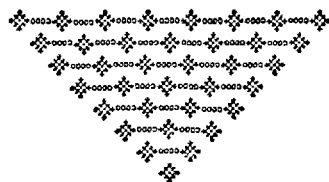
An Act to amend an Act, intituled, An Act for dividing Part of Granville, Johnston, and Bladen Counties, into a County and Parish, by the Name of Orange County, and the Parish of St. Matthew, and for appointing Vestrymen for the said Parish, and other Purposes therein mentioned. R E P.

S I G N E D by

MATTHEW ROWAN, Esq; President.

James Murray, President of the Council.

Samuel Swann, Speaker.



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act; and the said orders so as aforesaid paid shall be sufficient to discharge the said trustees and provincial treasurer, their executors and administrators respectively, of and from so much as shall be respectively paid by them and specified in the said orders. And the commissioners last mentioned for their trouble in discharging the duties required of them by this act shall have and receive one per centum on the whole sum of the orders by them drawn and no more.

And the said trustees and treasurer shall have and receive for their trouble respectively in performing the duties enjoined and required of them by this act, the sum of ten shillings each for every hundred pounds and no more.

Passed October 22, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed March 5, 1725-26, Chapter 289; and the Acts of Assembly passed May 30, 1764, Chapter 513; September 22, 1764, Chapter 516.

As to Section V, see the Act of Assembly passed May 20, 1767, Chapter 559.

CHAPTER DVI.

AN ACT TO PROHIBIT THE SELLING OF GUNS, GUNPOWDER OR OTHER WARLIKE STORES TO THE INDIANS.

Whereas several tribes of Indians for some time past have perfidiously made incursions within the frontiers of this province and have perpetrated many cruel and barbarous murders on the inhabitants thereof, and it must be in the present circumstance of affairs of dangerous consequence to supply the said Indians with guns, gunpowder or other warlike stores.

For prevention whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice

and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the passing of this act if any person or persons whatsoever shall directly or indirectly give to, sell, barter or exchange with any Indian or Indians whatsoever any guns, gunpowder, shot, bullets, lead or other warlike stores without license from the commander in chief of the King's forces in those parts or from the governor or commander in chief of this province for the time being first had and obtained, every such person or persons so offending, being thereof legally convicted in any county court of quarter sessions within this province, shall forfeit and pay the sum of five hundred pounds, one moiety thereof to the informer and the other moiety to the governor or commander in chief of this province for the time being, and shall furthermore be whipped with thirty-nine lashes on his bare back, well laid on, and be committed to the common gaol of the county, there to remain twelve months without bail or mainprise.

[Section II.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of twelve months and from thence to the end of the next session of assembly, and no longer.

Passed October 22, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII. Expired.

CHAPTER DVII.

AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY OF THIS PROVINCE.

Whereas many barbarous hostilities have lately been perfidiously committed by the Indians on the western and northern frontiers of this province and there is great reason to apprehend that a confederacy has been formed among several tribes of the said Indians to continue and extend their incursions, and

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An Act to amend and continue "An Act for the establishing and regulating patrols, and for preventing any person from purchasing provisions or any other commodities from, or selling such to any slave, unless such slave shall produce a ticket from his or her owner, manager or employer."

A. D. 1768.

No. 187.

WHEREAS the seventh and ninth clauses of the act for the establishing and regulating patrols, and for preventing any person from purchasing provisions or any other commodities from, or selling such to any slave, unless such slave shall produce a ticket from his or her owner, manager, or employer, do refer to the act of the general assembly of this province, entitled "An act for the better governing negroes and other slaves in this province," and to prevent the inveigling or carrying away slaves from their masters or employers, of which act his majesty hath declared his royal disallowance, and the several directions therein contained, and to which the said first recited act doth refer, are thereby annulled and of none effect, by which means many inconveniencies have arisen; to remedy which, *Be it enacted*, That immediately from and after passing of this act, it shall not be lawful for any slave, unless in the presence of some white person, to carry or make use of fire arms, or any offensive weapon whatsoever, unless such slave shall have a ticket or license in writing from his master, mistress, or overseer, to hunt and kill game, cattle, or mischievous birds or beasts of prey, and that such license be renewed every week, or unless there be some white person of the age of sixteen years or upwards in the company of such slave when he is hunting or shooting, or that such slave be actually carrying his master's arms to or from his master's plantation by a special ticket for that purpose, or unless such slave be found in the day-time, actually keeping off birds within the plantation to which such slave belongs, loading the same gun at night, within the dwelling house of his master, mistress or white overseer: *Provided always*, That no slave shall have liberty to carry any gun, cutlafs, pistol, or other offensive weapon, abroad at any time between Saturday evening after sun set, and Monday morning before sun rise, notwithstanding a license or ticket for so doing.

Preamble.

Enacted.

No slaves shall carry fire arms, &c. unless in the presence of some white person, or at certain times.

Proviso.

II. *And be it further enacted*, That in case any or either of the patrols, established or to be established within this province, by virtue of the said act, on searching and examining any negro house for offensive weapons, fire arms and ammunition, shall find any such, or in case any person shall find any slave using or carrying fire arms or other offensive weapons, contrary to the intent and meaning of this act, such patrol, or person or persons, may lawfully seize and take away such offensive weapons, fire arms, and ammunition, but before the property thereof shall be vested in the person or persons who shall seize the same, such person or persons shall, within three days next after such seizure, go before a justice of the peace, and shall make oath of the manner of taking thereof, and if such justice of the peace, after such oath made, or upon due examination, shall be satisfied that the said fire arms, offensive weapon, or ammunition, shall have been seized according to the directions, and agreeable to the

Patrol may seize offensive weapons found in negro houses, &c.

U

true.

A. D. 1768. true intent and meaning of this act, the said justice shall, by certificate under his hand and seal, declare them forfeited, and that the property is lawfully vested in the person or persons who seized the same; *Provided always*, That no such certificate shall be granted by any justice of the peace until the owner or owners of such fire arms, or other offensive weapon, so seized as aforesaid, or the overseer or overseers who shall or may have the charge of such slave or slaves from whom such fire arms or other offensive weapon so taken or seized, shall be duly summoned to shew cause why the same should not be condemned as forfeited, or in case of non-appearance until three days after the service of such summons, and oath made of the service thereof, before the said justice.

No. 187.
Proviso.

III. IV. V. Prohibiting persons trading with negroes without the license or consent of owners.—Re-enacted with alterations by act of 1770, No. 204, Sect. 31, 32, 33.

The fourth clause of the patrol act not to exempt the persons mentioned therein from patrol duty in Savannah, &c the governor and the ministers of the gospel excepted.

VI. *And whereas* it has been found, that the number of persons exempted in and by the fourth clause in the said act from the patrol duty, renders the said duty very burthensome upon the inhabitants in the town of Savannah, who are by law obliged to perform the same, *Be it therefore enacted*, That the said fourth clause shall not extend, or be construed to extend, to exempt the several persons therein mentioned, being above the age of sixteen and under the age of sixty, and residing in the town of Savannah, or hamlets of Yamacraw, Ewensburg, and the Trustees Gardens, (the governor or commander in chief for the time being, and ministers of the gospel, only excepted) from being subject to such patrol duty in the said town of Savannah, and hamlets aforesaid, in the same manner, and liable to the same penalties and forfeitures, as in and by the said recited act is particularly mentioned and declared.

Nightly disorders and riots how to be prevented:

VII. And in order to prevent nightly disorders and riots in the town of Savannah, *Be it further enacted*, That every patrol, appointed and to be appointed to do duty in the said town by virtue of the said act, shall be, and they are hereby empowered, in case of any riot or disturbance being made by any disorderly white person or persons, either in the streets, squares, or lanes of the said town, or in any tippling house, tavern, or punch house, within the same, or within the district of the said patrol, calling nevertheless a lawful constable to their assistance, before they shall enter such tippling house, tavern, or punch house, to apprehend and take into custody such white person or persons, and him or them safely to keep until the next morning, except such person or persons shall be apprehended and taken in any such tippling house, tavern, or punch house, in which case the constable so called to the assistance of such patrol, shall continue in the charge of such offender or offenders, when such patrol or patrols shall deliver such offender or offenders to the custody or charge of some one of the constables appointed for the said town, who are hereby directed to take charge of such offender, and convey him or them, at or before the hour of nine in the forenoon of the same day, to some one of the justices of the said town, who, upon proof of such offence, shall, and he is hereby empowered to inflict a fine not exceeding ten shillings, upon such offender or offenders, to be recovered by warrant under the hand and seal of such justice, and applied one half to the patrol who shall apprehend, and the other half to the constable having charge of such offender or offenders.

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VIII. *And be it further enacted*, That the said before recited act and this act shall continue and be in force for and during the term of one year, and from thence to the end of the next session of the general assembly, and no longer, any thing in the said recited act to the contrary thereof notwithstanding.*

A. D. 1768

No. 187.

Continuation of this and the before recited act.

N. W. JONES, *Speaker*.

JAMES HABERSHAM, *President*.

JAMES WRIGHT

December 24, 1768.

* Further continued by act of 1770, No. 203; and further continued by act of 1773, No. 224, for one year, and to the end of the next session of the general assembly, which was held in 1777; and finally made perpetual by act of 1784, No. 287.

*An Act to prevent fraudulent mortgages and conveyances, and for making valid all deeds and conveyances heretofore made, with respect to any defect in the form and manner of making thereof, with certain restrictions.**

No. 182.

WHEREAS notorious frauds have been committed by evil disposed and designing persons, who frequently mortgage and borrow money on security of lands and slaves, having before conveyed, sold, or mortgaged the same, and the recording of all deeds and conveyances of lands, tenements, negroes, and other chattels, will greatly tend to the securing the titles of the proprietors or mortgagees, and prevent such frauds for the future, *Be it therefore enacted*, That all and every deed and deeds of sale, mortgage, or conveyance of any lands, tenements, negroes, or other goods and chattels, heretofore made in this province, and which shall be recorded in the secretary's office of this province, within six months after the passing of this act, except such as have been made and executed in any of the British islands, or in any other of the colonies on the continent of North America, which shall be recorded within nine months, and except also such as have been made and executed in Great Britain or Ireland, which shall be recorded within twelve months; and all deeds of sale, mortgages, or conveyances, made and executed within this province, from and after the first day of January next ensuing, being recorded as aforesaid, within ten days after the execution thereof, shall be deemed, held, and taken as the first deed of sale, mortgage, or conveyance, and shall be allowed, adjudged, and held valid in all courts of judicature within this province, any former or other sale, mortgage, or conveyance, being of the same lands, tenements, negroes, and other goods and chattels, and not recorded as aforesaid notwithstanding.

Preamble.

Enacted.

Deeds of sale, &c. of lands, negroes, &c. where and in what time to be recorded.

II. *Provided always, and be it further enacted*, That nevertheless if it shall so happen there be more than one mortgage at the same time made by any person or persons to any person or persons of the same lands and tenements, negroes, goods or chattels, the several late or under mortgagees, who shall have recorded their mortgages,

How to proceed where there are more mortgages than one.

* See alterations made by act of 1785, No. 311, as to the recording of deeds and other conveyances of lands and tenements.

of thirty pounds shall be paid out of the Colony treasury to the person or persons who shall erect the second powder-mill in this Colony and make or manufacture therein five hundred pounds weight of good and merchantable gun-powder.

Be it further enacted, That the inspector or inspectors who shall inspect and give a certificate for any quantity of salt petre, as before directed, shall purchase and receive such salt petre for the Colony's use and benefit, and give his or their receipt therefor to the claimant or claimants, who shall be paid therefor out of the Colony treasury at such price as the General Assembly shall ascertain and affix.

And whereas it is expedient that powder-mills should be so situated as to accommodate the public in the best manner,

Be it further enacted by the authority aforesaid, That no powder-mill shall be erected in this Colony for the manufacture of gun-powder without the licence of the General Assembly, or in their recess of the Governor and Council, first had and obtained, under the penalty of thirty pounds for every such offence, to be recovered as the other foregoing penalties in this act are above directed to be recovered.

An Act for restraining and punishing Persons who are inimical to the Liberties of this and the Rest of the United Colonies, and for directing Proceedings therein.

[527] *Be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same*, That if any person within this Colony shall directly or indirectly supply the ministerial army or navy with provisions, military or naval stores, or shall give any intelligence to the officers, soldiers or mariners belonging to said army or navy, or shall enlist or procure any others to enlist into the service of said army or navy, or shall take up arms against this or either of the United Colonies, or shall undertake to pilot any of the vessels belonging to said navy, or in any other ways shall aid or assist them, and be thereof duly convicted before the superior court, shall forfeit all his estate, which shall be accordingly seized by order of said court for the use of this Colony; and such person shall be further punished by imprisonment in any of the goals in this Colony

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at the discretion of said court, for a term not exceeding three years.

And be it further enacted by the authority aforesaid, That if any person by writing or speaking, or by any overt act, shall libel or defame any of the resolves of the Honorable Congress of the United Colonies, or the acts and proceedings of the General Assembly of this Colony, made or which hereafter shall be made for the defence or security of the rights and privileges of the same, and be thereof duly convicted before the superior court, shall be disarmed and not allowed to have or keep any arms, and rendered incapable to hold or serve in any office civil or military, and shall be further punished either by fine, imprisonment, or disfranchisement, or find surety of the peace and good behaviour, as said court shall order, and shall pay the cost of prosecution.

And be it further enacted by the authority aforesaid, That on complaint being made to the civil authority, selectmen and committee of inspection of the respective towns in this Colony against any person or persons dwelling or residing in such town, or any adjoining town in the same county where there is not a committee of inspection, that he or they are inimical to the liberties of this Colony and the other United Colonies in America, it shall be the duty of such civil authority, selectmen and committee, to cause every such person or persons to appear before them to be examined, and if on examination they shall not be able to satisfy the said authority, selectmen and committee, or the major part of them, that they are not inimical to this or the other United American Colonies, then such person or persons shall be by order of said authority, selectmen and committee, or the major part of them, disarmed and not allowed to have or keep any arms until they shall satisfy said authority, selectmen and committee, or the major part of them, that such person or persons are friendly to this and the other United Colonies.

And for the more effectual carrying into execution this act according to the true intent and meaning thereof,

Be it further enacted by the authority aforesaid, That when any person shall be duly convicted and ordered to be dis-

armed as aforesaid, the superior court, or civil authority, selectmen and committee aforesaid, as the case may happen, are hereby impowered and fully authorized to issue a warrant, signed by the clerk of the superior court or by one or more of the said civil authority, directed to the sheriff of the county, his deputy, or to the constables of the town wherein such person or persons dwell, directing and ordering such officer forthwith to disarm such person or persons; and in case he or they shall refuse to resign up his or their arms, said officer by and with the advice of any one Assistant and justice of the peace, or two justices of the peace, is hereby authorized to raise the militia of the county, or so many of them as they shall judge needful, for the purpose of carrying into execution such warrant; and all military officers and soldiers, being duly required, who shall neglect or refuse to obey the command of such sheriff, his deputy, or constable, shall be subject to the same penalty as by law is provided for commission officers and soldiers who refuse to obey the sheriff in the execution of his office. And all informing officers are directed to enquire after and due presentment make of all the breaches of the foregoing paragraphs of this act.

And be it further enacted by the authority aforesaid, That on information being made to any of the county courts within this Colony by the selectmen of any towns, or the major part of them, that there are real estates in such town belonging to any person or persons who have since the making of this act put, or shall continue to hold and screen themselves under the protection of the ministerial army or navy, or have aided or assisted in carrying into execution the present ministerial measures against America, such county court within the county wherein such estate lyeth are hereby authorized and impowered to issue a warrant to attach such estate; an attested copy thereof with the officer's doings thereon shall be left at the last usual place of abode of such person or persons, if within this Colony, at least twelve days before the sitting of the next county court in such county; and if on enquiry by said court said information shall be found true, said court are directed to order said estate so

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attached to be held under the care of such person or persons as said court shall appoint, who shall improve said estate or estates for the use of this Colony and be accountable for the rents and profits thereof.

[528] An Act in Addition to an Act entitled An Act relating to Escheats and other Estates belonging to and recovered for the Use of the Public Treasury of this Colony.

Whereas in and by said act the Treasurer of this Colony is impowered and required to make sale of all escheats, as also of all lands that are or shall be recovered of any person or persons to the public treasury, by public vendue only, which in some cases is found to be inconvenient and attended with a needless expence :

Therefore be it enacted by the Governor, Council and Representatives, in General Court assembled, and by the authority of the same, That the Treasurer of this Colony be impowered and he is hereby impowered, to make sale of such lands as aforesaid either by public vendue, or by apprizement made by three judicious freeholders under oath, or private sale, as he shall judge may conduce most to the benefit of this Colony, and pass deed or deeds accordingly.

Whereas this Assembly in May, 1769, did establish and order that the military exercise called the Norfolk Militia Exercise should be used and practiced by the militia of this Colony for the future: And whereas the continental army have adopted the military exercise usually called the Manual Exercise as ordered by his Majesty in the year 1764, which is esteemed preferable in many respects to the said Norfolk Militia Exercise, for the purpose of preparing the soldiery for real service: Resolved by this Assembly, that for the future the military exercise called the Manual Exercise ordered by his Majesty in 1764 shall be observed and practiced by the militia in this Colony, and that the colonels or chief commanding officer of the respective regiments in this Colony do give orders to the commanding officers of each military company under their command, that they conform themselves thereto as soon as conveniently may be; any law or usage to the contrary notwithstanding.

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mittee have taken into consideration the matters to them referred, but not having come to any resolution, desired him to move for leave to sit again.

Resolved, That this Congress will, to Morrow, resolve itself into a committee of the whole, to take into consideration the matters heretofore referred to them.

||Mr. W[illiam] Livingston moved for leave to bring in a resolution for appointing a fast, which was granted.||

Resolved, That the marine committee be directed to purchase the armed vessel now in the river Delaware, on the most reasonable terms, for the service of the continent, and that her destination be left to the said marine committee.

Resolved, That the expences of the aids de camp's horses when travelling ||in the public service||, be charged to the account of the United Colonies.

Adjourned to 10 o'Clock to Morrow.

THURSDAY, MARCH 14, 1776

The committee appointed to confer with General Lee respecting the defence of New York, brought in their report, ||which was read: Whereupon,||

The command of the passage of the Sound must be ours. this I imagine is already effected by the works thrown up at Horne Hook; but as a farther security, batteries and a redoubt must be erected on the other side, either in ¹ Island or on the Continent of Long Island, as the Engineer and succeeding General shall determine. these additional works are not solely meant to shut up to the Enemy the passage through the sound, but to secure a free open and easy communication to our own Troops betwixt the Continent of New York and Long Island. As the City of New York is almost environ'd by navigable waters it is undoubtedly very difficult to fortify it against a powerful sea armament; but still I am of opinion that although Troops cannot

¹ In a version of this paper, printed in the *Lee Papers*, (New York Historical Society,) II, 354, the name *Montresor* is here inserted.

easily be prevented landing under the Guns of their shipping, they may be prevented lodging themselves in it, or converting it into a great place of arms as they have done Boston. the East River, I am almost persuaded, may be secur'd in such a manner that their Ships will scarcely venture into it, or at least they cannot keep their stations when in. a Battery for this purpose is plan'd and in some forwardness at the foot of the Jews burying ground, to protect this Battery from the near approach of Ships (which when close are always supposed to be an over match for Batteries level with the water and in a low situation) Guns in barbet placed on the heights of the Jews burying ground, ~~with~~ when in correspondence with a Battery I have ordered on an opposite commanding knoll in Long Island, will certainly be sufficient. these two fires will likewise be cross'd by a third of very considerable range from a work in the front of our trench'd Camp in Long Island, which work is likewise answered by a Battery sunk in a celler on the opposite Wharfe. such is our plan with respect to the east River, haveing attentively examined the Fort and great Batteries under it and consider'd whether they cou'd be of any possible use to us. I am of opinion that as Ships of great Burthen can approach so near the latter it will be dangerous if not impracticable to support them.

The Fort cannot for the same reason be defended, but as it is not possible in our hands to render it a fortification of offence against the Enemy, it might in their possession be converted into a Citadel to keep the Town in subjection. These considerations have induc'd me to throw down the north East and North West Bastions, with the communicating Curtain, so that being entirely open behind, and a commanding Traverse thrown across the Broad Way with three Guns mounted, ~~renders it~~ it is impossible for the Enemy to lodge themselves in and repair the Fort. The north River is so extremely wide and deep that it is in vain to think of any means to prevent the men of war commanding the navigation of it, but it does not appear to me, that they have it in their power to annoy ~~a great deal~~ dangerously the Town, much less to destroy it, It is true an accidental shell may do great mischief, but the effects of their Cannon are not I think much to be apprehended for there is a most fortunate ridge of Eminence which not only serves as a screen of protection for the Town but on which any number of Batteries may be erected to keep the Ships at a distance. I must observe once for all that New York from its circum-

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stances can with difficulty be made a regular tenable fortification, but it may be made a most advantageous field of Battle, so advantageous indeed, that if our people behave with common spirit, and the Commanders are men of discretion, it must cost the Enemy many thousands of men to get possession of it. The Streets must be traversed and barricadoed, so as to prevent their coming on our Flanks. three Redoubts thrown up on the three eminences Judge Jones, Bayards Hill, and either Lisenards or Haldermans house on Hudsons River, but these measures are not to be confin'd to the Town, the whole Island is to be redoubted in certain regular steps (if I may so express it) quite to Kings Bridge, these redoubts redans or Fliches are easily thrown up and are no expence. the leading roads from Hudsons River whence the Enemy can alone approach must be obstructed to artillery. Kings Bridge must be strongly fortified to preserve the communication free and open with Connecticut, on which Province you can alone depend for succours of men, for the Breadth and depth of the north River renders the Communication with Jersey too precarious. The possession and security of Long Island is certainly of still greater importance than New York. I have accordingly marked out a Camp fortified by a Chain of Redoubts mutually supporting each other, and which also corresponding with the Batteries on the New York side will prevent the Enimies entering or remaining in the east River. This Camp is intended to contain four or five thousand men; upon the whole for the defence of Long Island and New York eight thousand, at least, regular Troops will be necessary. With respect to the Fort on Hudsons River in the high Land I must refer the Congress to the report of Capt. Smith who was sent up to examine and who is extremely capable to judge and advise. I have now in a military capacity to the best of my recollection mentioned every circumstance relative to the Defence and security of New York and Long Island, but think it my duty to observe that all these measures will be totally fruitless unless some precautions are taken with respect to the profess'd Enimies of American Liberty nested in the very spots where they can do the greatest mischief Queens County and Staten Island. The Bonds they have given are too ridiculous to be mentioned, the association they have signed they consider as forced upon 'em, and consequently null. When our own Troops are obliged to remain inactive from want of arms, when from this deficiency the Canada Expedition is at a stand, New York and Long Island left open to the invasions of

the Enemy, is it not a most dangerous neglect, omission, or rather unaccountable infatuation, to suffer considerable Bodies of avowed Foes to be possessed of arms for your destruction? what possible advantage can result from such a false delicacy? I wou'd therefore humbly propose that the Inhabitants of Statten Island shou'd be without loss of time be disarm'd and their arms delivered to some Regiment already raised but unfurnished with muskets. I do not imagine that the disarming the Tories will incapacitate them ~~Forces~~ from acting against us, as they can easily be supplied by the Ships. I shou'd therefore think it prudent to ~~take~~ secure their Children as Hostages if a measure of this kind (hard as it may appear) is not adopted, the Childrens Children of america may be rue the fatal omission¹

Resolved, That eight thousand men be ordered for the defence of the colony of New York.

Resolved, That orders issue to Colonel Irvine, immediately to march with his batallion to New York, and put himself under the command of the officer commanding there.

That Colonel Dayton be like wise ordered with his batallion to march to New York, and join the forces there.

That Colonel Shee and Colonel Magaw be like wise ordered to march with their batallions to New York.

A letter from General Prescott of 14th, was laid before Congress, and read:

¹The original, in the writing of William Whipple (?), with a few words inserted by General Lee, is in the *Papers of the Continental Congress*, No. 21, folio 11.

General Lee sent to Washington the following account of earlier conferences held with a Committee of the Congress:

"The Congress Committee, a certain number of the Committee of Safety, and your humble servant, have had two Conferences. The result of these conferences is such as will agreeably surprise you. It is in the first place, agreed, and justly, that to fortify the town against shipping is impracticable; but we are to fortify lodgements, in some commanding part of the City, for two thousand men. We are to erect enclosed batteries on both sides the water, near Hellgate, which will answer, the double purpose of securing the town against piracies through the Sound, and secure our communication with Long Island, now become a more capital point than ever, as it is determined to form a strong fortified camp of three thousand men in that island, immediately opposite to New York. The pass in the Highlands is to be made as respectable as possible, and guarded by a battalion. In short I think the plan judicious and complete." *Lee to Washington*, 5 February, 1776.

March, 1776

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Resolved, That the committee on prisoners be directed to confer with General Prescott on the subject of his letter, and report to Congress.

Resolved, That it be recommended to the several assemblies, conventions, and councils or committees of safety of the United Colonies, immediately to cause all persons to be disarmed within their respective colonies, who are notoriously disaffected to the cause of America, or who have not associated, and shall refuse to associate, to defend, by arms, these United Colonies, against the hostile attempts of the British fleets and armies; and to apply the arms taken from such persons in each respective colony, in the first place to the arming the continental troops raised in said colony; in the next, to the arming such troops as are raised by the colony for its own defence, and the residue to be applied to the arming the associators; that the arms when taken be appraised by indifferent persons, and such as are applied to the arming the continental troops, be paid for by Congress, and the residue by the respective assemblies, conventions, or councils, or committees of safety:¹

Resolved, That a copy of the foregoing resolve be transmitted by the delegates of each colony, to their respective assemblies, conventions, or councils, or committees of safety.

The Committee of Claims reported, that there is due, To William Hencher, for waggon hire, in conveying Captain Stevenson's baggage, &c. to Cambridge, the sum of £21 17 6=58.3 dollars, and that the same ought to be paid to Moses Hunter.

To Rachel Stille, for boarding several officers, prisoners, to the 8th of March instant, the sum of £84 6 5=224.7 dollars.

¹ Printed in the *Pennsylvania Gazette*, 20 March, 1776.

CHAPTER 21.

AN ACT FOR THE EXECUTING IN THE COLONY OF THE MASSACHUSETTS BAY, IN NEW ENGLAND, ONE RESOLVE OF THE AMERICAN CONGRESS, DATED MARCH [FOURTEENTH] [14], [ONE THOUSAND SEVEN HUNDRED AND SEVENTY-SIX] [1776], RECOMMENDING THE DISARMING SUCH PERSONS AS ARE NOTORIOUSLY DISAFFECTED TO THE CAUSE OF AMERICA, OR WHO REFUSE TO ASSOCIATE TO DEFEND BY ARMS THE UNITED AMERICAN COLONIES AGAINST THE HOSTILE ATTEMPTS OF THE BRITISH FLEETS AND ARMIES; AND FOR THE RESTRAINING AND PUNISHING PERSONS WHO ARE INIMICAL TO THE RIGHTS AND LIBERTIES OF THE SAID UNITED COLONIES, AND FOR DIRECTING THE PROCEEDINGS THEREIN.

WHEREAS, on the fourteenth of March, one thousand seven hundred and seventy-six, a certain resolve was made and passed by the American Congress, of the following tenor; viz^{ty}. — *Resolved*, That it be recommended to the several assemblies, conventions and councils, or committees of safety, of the United Colonies, immediately to cause all persons to be disarmed within their respective colonies who are notoriously disaffected to the cause of America, or who have not associated, and refuse to associate, to defend by arms these United Colonies against the hostile attempts of the British fleets and armies; and to apply the arms taken from such persons, in each respective colony, in the first place, to the arming of the continental troops raised in said colony, in the next, to the arming such troops as are raised by the colony for its own defence, and the residue to be applied to the arming the associators; that their arms, when taken, be app[r][a]i[z][s]ed by indifferent persons, and such as are applied to the arming Continental troops be paid for by Congress; and the residue by the respective assemblies, conventions or councils, or committees of safety." —

Preamble.

Be it therefore enacted by the Council and House of Representatives in General Court assembled, and by the authority of the same,

All persons who refuse the test, to be disarmed.

[SECR. 1.] That every male person above sixteen years of age, resident in any town or place in this colony, who shall neglect or refuse to subscribe a printed or written declaration, of the form and tenor hereinafter prescribed, upon being required thereto by the committee of correspondence, inspection and safety, for the town or place in which he dwells, or any one of them, shall be disarmed, and have taken from him, in manner hereafter directed, all such arms, ammunition and warlike implements, as, by the strictest search, can be found in his possession or belonging to him: which declaration shall be in the form and words following; viz^{ty}. —

We, the subscribers, do each of us, severally, for ourselves, profess, testify [io] [y] and declare, before God and the world, that we verily believe that the war, resistance and opposition in which the United American Colonies are now engaged against the fleets and armies of Great Britain, is, on the part of the said colonies, just and necessary; and we do hereby severally promise, covenant and engage, to and with every person of this colony who has or shall subscribe this declaration, or another of the same tenor and words, that we will not, during the said war, directly or indirectly, in any ways, aid, abet [t], or assist any of the naval or land forces of the king of Great Brit[ai]n, or any employed by him, or supply them with any kind of provisions, military or naval stores, or hold any correspondence with, or communicate any intel-

The form of the test.

ligence to, any of the officers, soldiers or mar[r]iners belonging to the said army or navy, or inlist, or procure any others to inlist, into the land or sea service of Great Brit[t]ain, or take up or bear arms against this or either of the United Colonies, or undertake to pilot any of the vessels belonging to the said navy, or in any other way aid or assist them; but on the contrary, according to our best power and abilities, will defend by arms the United American Colonies, and every part thereof, against every hostile attempt of the fleets and armies in the service of Great Britain, or any of them, according to the requir[e]ments and directions of the laws of this colony that now are, or may hereafter be, provided for the regulation of the militia thereof.

And be it further enacted by the authority aforesaid,

Mode of pro-
ceeding against
delinquents;

[SECT. 2.] That the committee of correspondence, inspection and safety, in each and every town and place in this colony, or some one member of such committee, shall, without delay, tender the said declaration to every male person in their respective town and places, above the age of sixteen years, requiring them severally to subscribe the same, with his name or sign, in his or their presence; and if any one shall refuse or neglect so to do for the space of twenty-four hours after such tender is made, the said committee, or some one of them, shall forthwith give information of such refusal or neglect to some justice of the peace for the county in which such delinquent dwells; and the justice to whom such information is given shall forthwith make his warrant, directed to the sher[r]iff of the same county, or his deputy, or one of the constables of the town in which such supposed delinquent hath his usual place of abode, or any indifferent person, by name, requiring him forthwith to take the body of such delinquent and him bring before the said justice, to answer to such information, and to shew cause, if any he hath, why he should not be disarmed, and have taken from him all his arms, ammunition and warlike implements; and in case it shall be made to appear to the said justice that the said information is true, and he should not shew any sufficient cause why he should not forthwith be disarmed, &c., then the said justice shall make his warrant, directed to some proper person, requiring him, without delay, to disarm the said delinquent, and take from him all his arms, ammunition and warlike implements; and in case such delinquent shall refuse to resign and give up all his arms, ammunition and warlike implements, the person to whom the said warrant is directed shall have power, after demanding admission, to enter the dwelling-house, or any other place belonging to the delinquent, where he may have reason to suspect such arms are concealed, and make strict and diligent search for the articles aforesaid; and in case he shall find any of the said articles, he shall take them, and immediately carry and deliver them to the justice who made the said warrant, which justice is hereby required to receive them and to appoint some indifferent and judicious person or persons to appraise the same; and the said justice shall keep a true account of all such arms, ammunition and accoutrements, the person or persons they were taken from, and the sum or sums they were appraised at, and shall return a true account thereof into the secretary's office, as soon as may be, and shall keep the said arms, &c., safely to be disposed of and paid for as the general court shall order; and if the person to whom the warrant is directed shall meet with resistance, or shall have reason to apprehend that he shall meet with resistance, in the execution of the said warrant, then he shall give information thereof to the justice of the peace who issued the said warrant, who, if he shall judge it needful for carrying such warrant into execution,

shall go in person to some military officer in the same county and require him immediately to raise such a number of the militia as the said justice shall judge necessary, and the said justice shall proceed in person, with the said militia and the person to whom the said warrant is directed, and in the most prudent way he can, cause the delinquent to be disarmed, and all the articles aforesaid to be taken from him, and appraised and retained in manner as is above directed.

[SECT. 3.] And in case it shall be made to appear to any justice of the peace that there is reason to suppose that any of the arms, ammunition, or warlike implements, belonging to any person who shall refuse or delay, as abovesaid, to subscribe the said declaration, are concealed in any dwelling-house or other place not belonging to such delinquent, such justice shall have power and is hereby directed to make his warrant to some proper person, requiring him to make diligent search in such suspected place or places, to be particularly described or mentioned in such warrant, for the articles aforesaid; and in case they shall be found, such proceedings shall be thereupon had, touching the same, as is above prescribed when they are in the actual possession of the delinquent, aforesaid; and in case of resistance or opposition made to the execution of such warrant, the like proceedings shall thereupon be had as are above directed when resistance is made to the searching for or taking such articles when in the actual possession of such delinquent: and all officers and soldiers of the militia are hereby directed to obey and observe such direction as shall be given by such justice of the peace in the premis[s]es.

[SECT. 4.] And every person who shall refuse or neglect to subscribe the said declaration, having had the same tendered to him as [abovesaid] [aforesaid], in case he holds any office, civil or military, in this colony, shall be deem[e]’d and adjudged, *ipso facto*, disqualified to exercise any such office; and if a town officer, the town he belongs to shall, and they hereby are, impowered and required to, proceed to make choice of some fit person to serve in such office in his room; and in case he does not at present hold any such offices, he shall be deemed totally disqual[if]ied to be chosen or appointed, or to hold any such office, till some further order of the general assembly. And in case any such person so refusing or neglecting shall be chosen or appointed to any office, civil or military, all acts and doings of such person in the execution of any such office, shall be deem[e]’d and held to be null and void and of none effect; and no person so refusing or neglecting, shall be permitted to give his vote in the choice of any person to serve as representative in the general court or assembly, or in the choice of any military, town, or county, officer, until[1] he shall be restored, by order of the general court, to the privile[d]ges of a good and free member of this community. And no settled minister or gramm[e] [r] school master, who shall refuse or neglect to sign said declaration, shall be intit[u]led, by the laws of this colony, to demand or recover any sal[ar]y or reward for any time or service spent or performed in their respective offices, from and after such refusal or neglect, until[1] they shall subscribe such declaration; and if any of the governors of Harvard College shall refuse to sign the declaration aforesaid, they shall be thereby disqualified to receive any salaries or grants of the general assembly for services done after their refusal as aforesaid.

And be it further enacted by the authority aforesaid,

[SECT. 5.] That if any person or persons resident in this colony, shall, during the war aforesaid, directly or indirectly, supply the army or navy of the king of Great Brit[t]ain, or any employed by him,

—who are disqualified from holding any office in the colony;

—and from voting for a representative, or any military, town, or county, officer;

—and from receiving any salaries or grants.

Persons who shall supply the army or navy, &c.,

—shall forfeit
their estates and
be imprisoned,

—not exceeding
three years;

—and be dis-
franchised.

Mode of pro-
ceeding against
persons inimical
to the liberties
of the United
Colonies.

with provisions, military or naval stores, or shall give any intelligence to the officers, soldiers or mariners belonging to said army or navy, or shall enlist, or [shall] procure any other person or persons to enlist into the service of the said army or navy, or shall take up or bear arms against this or any other of the United Colonies, or shall undertake to pilot any of the vessels belonging to the said navy, or in any other way shall aid or assist the said army or navy, every person so offending, and being thereof duly convicted before the superior court of judicature, &c., shall forfeit all his estate, which shall be accordingly seized and entered upon, by the order of said court, for the use of this colony; and such person shall be further punished by imprisonment, in any of the gaols in this colony, at the discretion of the said court, for a term not exceeding three years; and every person so convicted shall be totally disqualified to hold or exercise any office, civil or military, and shall not be permitted to give his vote for any representative to serve in the general court or assembly, or in any town meeting for the choice of any town or county officer, or for any military officer, until he shall be restored, by order of the general court, to the privileges of a good and free member of this community.

And be it further enacted,

[SECT. 6.] That, on complaint being made by the selectmen, or committee of correspondence, inspection and safety, or by any sheriff, deputy sheriff, constable, grand-jurymen or tythingmen, in any county in this colony, to any justice of the peace for the same county, against any person or persons dwelling or residing in such town or county, that he or they are inimical to the liberties of this colony and the other United Colonies in America, the said justice is hereby empowered to issue his warrant to the sheriff of the county, his deputy, or to the constables of the town wherein such person or persons dwell, requiring him to apprehend and bring before him such person or persons, to be examined; and if on examination, it shall appear to the said justice that he or they are inimical and dangerous to the liberties of this colony and the other United Colonies in America, the said justice shall require such person or persons to find sureties for the peace and good behaviour, as also for his appearance at the next court of general sessions of the peace, or superior court of judicature, &c, to be holden in said county, at his discretion; and, for want of sufficient sureties, shall commit him to the common gaol in the said county, there to be held until the next sitting of one of the said courts, as the said justice in his said warrant shall order, and until he be discharged by such court, or otherwise by order of law; and in case such person or persons shall, before either of the said courts, be found by the jury, upon trial, to be inimical or dangerous to the liberties of this colony or the other United Colonies, the court shall order that he be immediately disarmed; and shall make their warrant, directed to some proper officer, requiring him to seize and take all the arms, ammunition and warlike implements belonging to such criminal, and commit the same to the clerk of the court, who shall proceed with such arms in the same manner as a justice of the peace, before, in this act, is directed to do with the arms taken from any person for refusal or neglect to subscribe the declaration in this act prescribed; and shall require him to find sufficient sureties for the peace and good behaviour for any longer time, at their discretion, and on default thereof, shall commit him to the common gaol of the county until he comply with such order; and shall order the person so convicted, to pay the cost of prosecution, and to be committed until he pay the

same; and every person so convicted shall be totally disqualified to hold any office, civil or military, or to give his vote for any representative to serve in the general court or assembly, or for any military, town, or county officer, until such person or persons shall be restored, by the general court, to the privileges of a good and free member of this community.

And whereas it may have happened that some towns and unincorporated plantations in this colony may be destitute of a committee of correspondence, inspection and safety, by reason of their not having seasonably received the resolves of this court directing thereto, or from some other cause; therefore, —

Be it further enacted by the authority aforesaid,

[SECT. 7.] That in all such towns and places as did not, at their annual meeting in March last, agreeable to the resolves of this court, choose such committee, the committee of correspondence, inspection or safety, in every such town and place, last chosen before the annual meeting in March last, are hereby directed and empowered to continue acting in such capacity, and shall perform the business required in this act of a committee of correspondence, inspection and safety, until a new committee shall be chosen in their respective towns and places; and where no such committees have heretofore been chosen, the selectmen shall perform the same; and all such towns and places are directed and empowered to call meetings and choose such committee as soon as may be.

In all such towns as did not choose a committee of correspondence, &c., in March last, the committee formerly chosen are empowered to act until a new committee is chosen.

Provided, nevertheless, —

And be it further enacted,

[SECT. 8.] That nothing in this act shall be construed to extend to the disarming, disqualifying, or any way punishing any of the denomination of Christians called Quakers, for not signing the aforesaid declaration, in case, upon being required to sign the following declaration, and having the same tendered to him, shall not refuse or neglect to subscribe it; vizth, —

Quakers not to be disarmed for not signing, in case, &c.

We, the subscribers, do solemnly promise and engage that we will not aid, assist or abet the land or naval forces of Great Britain, in the war now carrying on against the United Colonies of America, nor supply them with any kind of provisions, naval or warlike stores, nor hold any correspondence with, or communicate any intelligence to, any of the officers, soldiers or mariners, of said army or navy.

—and the committees are required in like manner to tender the last preceding declaration to each of the said denomination of Christians called Quakers, and require them to sign the same, if any such there are in their respective towns or places.

And be it further enacted by the authority aforesaid,

[SECT. 9.] That no person who hath voluntarily left his town or usual place of abode and fled to the British fleet or army, while stationed in Boston or elsewhere, or willingly supplied said fleet or army with provisions or stores of any kind, since the nineteenth of April, one thousand seven hundred and seventy-five, communicated any intelligence to, or held any criminal correspondence with, any of the officers, soldiers or mariners, of said fleet or army, or that hath voluntarily entered into, or signed, any association to join or assist said army or navy, or in any way voluntarily aided, assisted or abetted the same, shall be permitted to sign either of the declarations aforesaid, and shall be totally disqualified to hold or exercise, in this colony, any office, civil or military, or to give his vote for any representative to

Certain persons not permitted to sign the declaration;

—and disqualified to hold any office and from voting for a representative

or for any town,
county, or mili-
tary officer.

serve in the general court of this colony, or for any town, county, or military officer; and shall have taken from him all his arms, ammunition and warlike implements, in the same manner, and the like proceedings shall be thereon had, as is hereinbefore directed for disarming those who refuse or neglect to sign said declaration.

[SECT. 10.] And nothing in this act shall be construed to entitle any persons who may have been heretofore disarmed by any of the committees of correspondence, inspection or safety, in any town or place in this colony, to receive their arms again but by the order of such committee or the general court. [*Passed May 1, 1776*]

CHAPTER 22.

AN ACT FOR ESTABLISHING THE STILE OF COMMISSIONS WHICH SHALL HEREAFTER BE ISSUED, AND FOR ALTERING THE STILE OF WRITS, PROCESSES, AND ALL LAW PROCEEDINGS, WITHIN THIS COLONY; AND FOR DIRECTING HOW RECOGNIZANC[ES] TO THE USE OF THIS GOVERNMENT, SHALL, FOR THE FUTURE, BE TAKEN AND PROSECUTED.

Preamble.

WHEREAS the petitions of the United Colonies, to George the Third, king of Great Brit[t]ain, for the redress of great and manifest gr[t]ev[e]ances, have not only been rejected but treated with scorn and contempt, and their opposition to designs evidently formed to reduce them to a state of servile subjection, and their necessary defence against hostile forces actually employed to subdue them, have been declar[e]d rebellion; and whereas an unjust war has been commenc[e]d against them, which the commanders of Brit[t]ish fleets and armies have prosecuted, and still continue to prosecute, with their utmost vigour, in cruel manners, and have directed their veng[e]ance principally against this colony, wasting, spoiling and destroying the country, burning houses and defenceless towns, and exposing the helpless inhabitants to every mis[s]ery, — by which inhumane and barbarous treatment, by the commandment of George the Third, king of Great Brit[t]ain, &c., the people of this colony consider themselves greatly injur[e]d, and have been obli[d]ged to have recourse to arms to repel such injuries; and whereas, under such circumstances, the absurdity of issuing commissions, writs, processes and other proceedings in law, and in the courts of justice within this colony, in the name and stile of the king of Great Brit[t]ain, is very apparent, and the tendency it has to keep up ideas inconsistent with the saf[e]ty of this government has given the good people of this colony great uneasiness, —

Be it therefore enacted by the Council and House of Represent[i][a]-tives in General Court assembled, and by the authority of the same,

Style of civil
commissions,
&c.

— their dates.

The regal style
expunged, June
1st, 1776.

[SECT. 1.] That all civil commissions, writs and precepts for conven[e]ing the general court or assembly, which shall hereafter be made out in this colony, shall be in the stile and name of the Government and People of the Mass[e][a]chusetts Bay, in New England; and all commissions, both civil and military, shall be dated in the year of the Christian [a]era, and shall not bear the date of the year of the reign of any king or queen of Great Brit[t]ain.

[SECT. 2.] And that all writs, processes and proceedings in law, and in any of the courts of justice in this colony, which have been

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Providence; Mr. Pardon Tillinghast, for the county of Kings county; Mr. Benjamin Bosworth, for the county of Bristol; and Mr. Thomas Tillinghast, for the county of Kent, or the major part of them, be, and they are hereby, appointed a committee, to inquire into the damages done within this colony, by the troops in the service of the colony, before the act was made directing who should be answerable for such damages; and that they make report to this Assembly, at the next session.

It is voted and resolved, that Messrs. Nathaniel Mumford, Thomas Greene and Gideon Mumford, be, and they are hereby, appointed a committee, to audit the accounts of the committee of safety, and of the commissary of the colony's brigade; and that they make report to this Assembly, at the next session.

An estimate of the damages done to a house in Newport, belonging to John Northup, Esq., by the soldiers of the colony's brigade, having been laid before, and duly considered by, this Assembly,—

It is voted and resolved, that £5 7s. 4d., lawful money, being the sum they were estimated at, be allowed therefor, and paid the said John Northup, out of the general treasury.

An Act empowering the members of the upper and lower houses of Assembly, to tender to such of the inhabitants as are hereinafter mentioned, a declaration, or test, for subscription.

Whereas, the great danger to which this colony is exposed, makes it necessary to use every measure for detecting those persons among us, who are inimical to the United Colonies, and preventing their doing injury to the common cause,—

Be it therefore enacted by this General Assembly, and by the authority thereof, it is enacted, that all the male inhabitants of this colony, of sixteen years of age and upwards, who shall be suspected of being inimical to the United American Colonies, and the arduous struggle in which they are engaged,

1776.]

AND PROVIDENCE PLANTATIONS.

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against the force of Great Britain, shall make and subscribe the following declaration, or test, to wit :

Declaration or Test, to be made by suspected persons in the Colony, relative to the War with Great Britain

“ I, the subscriber, do solemnly and sincerely declare, that I believe the war, resistance and opposition, in which the United American Colonies are now engaged, against the fleets and armies of Great Britain, is on the part of the said colonies just and necessary ; and that I will not, directly nor indirectly, afford assistance of any sort or kind, whatever, to the said fleets and armies, during the continuance of the present war ; but that I will heartily assist in the defence of the United Colonies.”

And be it further enacted by the authority aforesaid, that in case any such suspected person shall refuse to subscribe the same, it shall be in the power of either of the members of the upper or lower house of Assembly, in this colony, and they are hereby directed to issue a summons, and call the person so refusing, before him, and make inquiry into the reasons of his refusal ; and if he shall continue such refusal, without giving satisfactory reasons for the same to the member summoning him, or shall refuse to appear upon being summoned, such member shall issue his warrant, directed to the sheriff of the county where the person so refusing shall dwell, or his deputy, commanding him, with sufficient aid, to make strict and diligent search for all arms, ammunition and warlike stores, belonging to such persons so refusing, and to take and deliver the same to the captain of the company of militia in whose district the delinquent shall live, to be made use of in time of an alarm, taking a receipt of the captain, therefor ; which arms, ammunition and warlike stores, shall be appraised by two indifferent persons, to be appointed by such member so issuing the summons, and be paid for out of the general treasury.

And that such member, so summoning any suspected person,

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shall make return of all his proceedings, in pursuance of this act, to the General Assembly, at the next succeeding session, after his issuing any summons.

Provided, nevertheless, and it is further enacted by the authority aforesaid, that in case any person so summoned, shall produce a certificate from the clerk of any Meeting of the Friends, that he is in unity with that society, or shall take the affirmation directed in an act entitled, “An act for the relief of persons of tender consciences, and for preventing their being burthened with military duty,” he shall be excused from subscribing to the said declaration, or test.

And be it further enacted by the authority aforesaid, that a copy of this act be inserted in the next Newport Mercury and Providence Gazette.

It is voted and resolved, that Mr. John Smith be, and he is hereby, directed to deliver to Mr. Ephraim Westcot, four guns, bayonets and cartouch boxes, for the same articles which are due from the colony to Messrs. Job Greene, Nathan Franklin, Uriah Franklin and Peleg Colvin, taking the said Westcot's receipt therefor.

It is voted and resolved, that the thanks of this General Assembly be, and they are hereby, presented to John Collins, Esq., for his services at the Continental Congress; and that his expenses to, at and from Philadelphia, be allowed and paid, out of the general treasury.

It is voted and resolved, that the committee of safety for the county of Newport, purchase two hundred spears, for the batteries, in the township of Newport.

It is voted and resolved, that the general treasurer be, and he is hereby, directed to prosecute Mr. Silas Casey, for a breach of contract, in not delivering a quantity of salt purchased of him by the colony.

Whereas, the militia of the town of Exeter, is so numerous, as to be sufficient for three companies,—

It is therefore voted and resolved, that the same be divided into three companies.

That all the persons living to the eastward of Second River,

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Pen. on persons
voting who are
not qualified.
Vol. 2, 193.

XI. And be it further enacted by the authority aforesaid, That if any person shall hereafter vote at any election, who by law shall not be entitled to vote at such election, he shall forfeit and pay the sum of five pounds lawful money of this state; to be recovered with costs, by action of debt in any court of record having cognizance thereof, one half to the justices of the county wherein such election shall be had, to be applied towards lessening the county tax, and the other half to him or them who shall sue for the same; and where any suit shall be brought against any person for voting as aforesaid, without having a right to such vote, the *Onus Probandi* shall lie upon the defendant.

Pen. on candi-
dates giving re-
wards, &c.

XII. And be it enacted by the authority aforesaid, That if any person shall at any time before or after any election, either directly or indirectly, give any money, gift, gratuity, or reward, to any elector or electors, or to any county or town, in order to be elected, or to procure any other person to be elected as a member of the general assembly, every person so offending shall forfeit and pay five hundred pounds, lawful money of this state; to be recovered by action of debt, in any court of record having cognizance thereof, with costs, and shall be incapacitated to serve as a member during the continuance of that general assembly, for which such election shall be made as aforesaid.

Delegates, &c.
not to sit in As-
sembly.

XIII. And be it further declared and enacted by the authority aforesaid, That the delegates from this state in the congress of the United States, and officers of the courts of admiralty and courts of equity, shall be, and are hereby declared to be incapable of being elected as members to serve in the general assembly, or to enjoy seats therein; and any member of the general assembly who shall accept any such office, shall thereby vacate his seat therein.

XIV. Repealed, Vol. 2, 177.

No sheriff, coro-
ner to take the
poll.
Vol. 2, 142.

XV. And be it further enacted by the authority aforesaid, That if at any time it shall happen that there shall be no sheriff in any county qualified according to law, the coroner or coroners in such county is, and are hereby empowered to hold the election for such county; and such sheriff or coroner, within ten days after every election, shall, at the request of any person elected to serve in the general assembly, or other person in his behalf, cause fair copies of the lists of votes, and the number of ticket ballots for each candidate, to be made out and delivered to the person requesting the same, or to his order, which lists and numbers shall be signed by the returning officer; and if any officer shall refuse so to do, or to make elections in any other manner than by this act is directed, or shall neglect or refuse to make returns of the elections by him to be made or taken, the officer so offending shall forfeit and pay five hundred pounds, lawful money of this state; to be recovered by action of debt, in any court of record having cognizance thereof, with costs, one half to the governor for the time being, for the use of the state, and the other half to such person as shall sue for the same,

XVI. Repealed, Vol. 2, 78.

CHAP. 5.

Provided for by subsequent acts.

An act for directing the method of appointing jurors in all causes, civil and criminal.

CHAP. 6.

1, 1777, 6.
1789, 13.

Persons owing
allegiance.

An act to amend an act for declaring what crimes and practices against the state shall be treason, and what shall be misprison of treason, and providing punishments adequate to crimes of both classes, and for preventing the dangers which may arise from persons disaffected to the state.

BE it enacted by the General Assembly of the state of North-Carolina and it is hereby enacted by the authority of the same, That all and every person and persons (prisoners of war excepted) now inhabiting or residing within the limits of the state of North-Carolina, or who shall voluntarily come into the same hereafter to inhabit or reside, do owe and shall pay allegiance to the state of North-Carolina.

When deemed
high-treason.

II. And be it further enacted by the authority aforesaid, That if any person or persons belonging to or residing within this state, and under the protection of its laws shall take a commission or commissions from the king of Great-Britain, or any under his authority, or other the enemies of this state, or the United States of America, or shall levy war against this state, or the government thereof, or knowingly and wilfully shall aid or assist any enemies at open war against this state, or the United States of America, by joining their armies, or by inlisting, or procuring or persuading others to inlist for that purpose, or by furnishing such enemies with arms, ammunition, provision, or any other article for their aid or comfort, or shall form, or be in any wise concerned in forming, any combination, plot or conspiracy, for betraying this state, or the United States of America, into the hands or power of any foreign enemy, or shall give any intelligence to the enemies of this state for that purpose, every person so offending, and being thereof legally convicted by the evidence of two sufficient witnesses, or standing mute, or peremptorily challenging more than

Trial.

thirty five jurors, in any court of oyer and terminer, or other court that shall and may be established for the trial of such offences, shall be adjudged guilty of high treason, and shall suffer death without the benefit of clergy. and his or her estate shall be forfeited to the state. *Provided*, That the judge or judges of the court wherein such conviction may be, shall and may order and appropriate so much of the traitor's estate as to him or them may appear sufficient for the support of his or her family. 2,1777. 229

III. *And be it further enacted by the authority aforesaid*, That if any person or persons within this state shall attempt to convey intelligence to the enemies of this state, or of the United States, or shall publicly and deliberately speak or write against the public defence, or shall maliciously and advisedly endeavour to excite the people to resist the government of this state, or persuade them to return to a dependence on the crown of Great-Britain, or shall knowingly spread false and dispiriting news, or maliciously and advisedly terrify and discourage the people from enlisting into the service of this state, or the United States, or shall stir up or excite tumults, disorders, or insurrections in the state, or dispose the people to favour the enemy, or oppose, or endeavour to prevent the measures carrying on in support of the freedom and independence of the said United States, every such person or persons, being thereof legally convicted by the evidence of two or more creditable witnesses, or other sufficient testimony, shall be adjudged guilty of misprision of treason, and shall suffer imprisonment during the war, and forfeit to the state one half of his, her or their lands, tenements, goods and chattels. What misprision of treason. Punishment. Trial.

IV. *And be it further enacted by the authority aforesaid*, That all offences by this act declared misprision of treason, shall be cognizable before any justice of the peace of the county where the offence was committed, or where the offender can be found; and every justice of the peace within this state, on complaint to him made on the oath or affirmation of one or more creditable person or persons, shall cause such offender to come before him, and enter into a recognizance, with one or more sufficient surety or sureties, to be and appear at the next superior court of the district wherein the offence was committed, and abide the judgment of the said court, and in the mean time to be of the peace and good behaviour to all people within the state; and for want of such surety or sureties, the said justice shall and may commit such offender either to the gaol of the county or district where the offence was committed, and appoint a guard for the safe conveying him to such gaol; and all persons charged on oath or affirmation with any crime or crimes by this act declared to be treason against the state, shall be dealt with, and proceeded against, in like manner as the law directs in respect of other capital crimes. Where cognizable. Proceeding on complaint.

V. And whereas the safety of the state, and the present critical situation of affairs, make it necessary that all persons who owe or acknowledge allegiance or obedience to the King of Great-Britain should be removed out of the state; *Be it enacted by the authority aforesaid*, That all the late officers of the King of Great-Britain, and all persons (Quakers excepted) being subjects of this state, and now living therein, or who shall hereafter come to live therein, who have traded immediately to Great-Britain or Ireland within ten years last past, in their own right, or acted as factors, storekeepers, or agents, here or in any of the United States of America or Ireland, shall take the following oath of abjuration or allegiance, or depart out of the state, viz. Persons to take the oath of allegiance.

I WILL bear faithful and true allegiance to the state of North-Carolina; and will truly endeavour to support, maintain, and defend the independent government thereof, against George the third, king of Great-Britain, and his successors, and the attempts of any other person, prince, power, state or potentate, who by secret arts, treasons, conspiracies or by open force, shall attempt to subvert the same, and will in every respect conduct myself as a peaceful orderly subject; and that I will disclose and make known to the governor, some member of the council of state, or some justice of the superior courts or of the peace all treasons, conspiracies, and attempts, committed or intended against the state, which shall come to my knowledge.

And that all persons being Quakers, Moravians, Menonists, and Dunkards, and under the circumstances above mentioned, shall make the following affirmation, or depart the state:

I A. B. do solemnly and sincerely declare and affirm, that I will bear true fidelity to the independent state of North-Carolina, and to the powers, and authorities which are or may be established for the good government thereof; and I do renounce any fidelity to the present king of Great-Britain, his heirs and successors; and that I will disclose and make known to the governor, some member of the council of state, judge of the superior court, or justice of the peace, all treasons, conspiracies, or attempts, committed or intended against the same, which shall come to my knowledge." Quakers affirmation.

2302,1777. And the said oath or affirmation shall be taken and subscribed in open court, in the county where the person or persons taking the same shall or do usually reside.

Justices may
issue citations.

VI *And be it further enacted by the authority aforesaid,* That the county courts in each and every county, and every justice of the peace in each respective county, shall have full power to issue citations against persons coming within the above description, as officers, merchants, traders, factors, storekeepers, or agents, and to demand surety on recognizance if necessary, and to require their attendance at the next ensuing court to be held for the county : and if any person so cited (due proof being made thereof) shall fail or neglect to attend, or attending shall refuse to take the said oath or affirmation, (as the case may be) then the said court shall and may have full power and authority to order such person to depart out of this state to Europe or the West-Indies, within sixty days, and may take bond and security, in the name of the governor, for the benefit of the state, for faithful compliance with such order ; and if any person so ordered shall fail or neglect to depart within the limited time, such bond shall be forfeited to the state, without good and sufficient reasons shewn to, and approved of by the governor and council ; and the justices, or any of them, in the county wherein the person so failing or neglecting to depart shall be found, shall and may cause him to be apprehended and brought before the court of the county where the order was made ; and the said court shall in such case send the person so offending as speedily as may be out of the state, either to Europe or the West-Indies, at the cost and charges of such offender, and to this end shall and may direct the clerk of the court to issue an order or orders to any sheriff in the state to seize and sell so much of the goods and chattels, lands and tenements, of such person within his bailiwick, as may be judged necessary by said court to defray such costs and charges, together with the costs and charges of apprehending and confining such person until he shall be sent out of the state; and the sheriff to whom such order of court shall be directed, is hereby required to obey the same, and to execute proper conveyances; and to return the money arising by any sale made by virtue of such order, after deducting his fees and commissions as in other cases, to the next county court of the county from whence such order issued, under the penalty of five hundred pounds, current money ; to be recovered by action of debt, in any court having cognizance thereof, one half for the use of the state, the other half to the person that shall sue for the same ; and if any surplus shall remain after paying all costs and charges for apprehending, confining, and sending such person out of the state, then the county court shall cause such surplus to be paid the owner. *Provided nevertheless,* That all and every such person and persons shall have liberty to sell and dispose of his or their estates, and after satisfying all just demands, to export the amount in produce (provisions and naval-stores excepted) and may also nominate and appoint an attorney or attorneys to sell and dispose of his or their estates, for his or their use and benefit ; but in case any real estate belonging to any such person shall remain unsold for more than three months next after the owner thereof hath departed this state, the same shall be forfeited to and for the use of the public.

Pen. on persons
returning.

VII. *And be it further enacted,* That if any person so departing, or sent off from this state, shall return to the same, then such persons shall be adjudged guilty of treason against the state, and shall and may be proceeded against in like manner as is herein directed in cases of treason.

VIII. And whereas among other things it was enacted in an act, entitled " An act for declaring what crimes and practices against the state shall be treason, and what shall be misprison of treason, and providing punishments adequate to crimes of both classes, and for preventing the dangers which may arise from persons disaffected to the state," that each and every justice in each respective county may cite any person or persons to appear before the county court where such person or persons usually reside, and take the aforesaid oath or affirmation ; and in case of non-attendance or refusal, the said court shall and may have full power to compel such person or persons to leave the state, under the same regulations herein mentioned in other cases. And as some scruples have arisen with respect to the manner by law required for the service of such citations, and as by many it has been held that a service upon the person of him intended to be cited was necessary, before his attendance in court could be legally compelled, as many suspected persons by continual absence from their place of abode, or frequently removing from thence, have rendered the service of such personal citations difficult, and in some cases impracticable, whereby they evade the intentions of the said act, and cannot be obliged to take the said oath prescribed, nor be made subject to the penalties ordained for neglecting or refusing the same : and whereas there is great reason to believe that there are divers persons whose intentions are inimical to the state, who would in case of invasion by our enemies, or the expectation of immediate support of them, carry such intentions into practice, but who artfully in their open demeanor and deportment betray no such design, whereby from not incurring particular suspicion

on, they have escaped being cited; and as it becomes the duty of every member of society to give proper assurance of fidelity to the government from which he enjoys protection, and by their refusal so to do, the voice of reason and justice, confirmed by the practice of all nations, proclaim that they should no longer enjoy the privileges of freemen of the said state; and as the penalties ordained by the said act have been in a great measure evaded by the difficulty or impossibility of procuring vessels to transport all such recusants beyond sea, or from their being unable to pay the expence of the voyage, by which means such persons still remain within this state, without suffering the penalties they have justly deserved; *Be it further enacted by the authority aforesaid*, That the county court of each respective county which shall sit after the last day of February, shall divide the county into several districts, in each of which shall reside one or more justices of the peace, which said justices within their respective districts are hereby enjoined and required to administer such oath of allegiance or affirmation, as the case may be, to all free male persons above sixteen years of age (persons *non compos mentis*, prisoners of war, only excepted) and such justice or justices in their respective districts so allotted to him or them, shall immediately after the sitting of the said court, in different parts of the said county, one of which shall be the court-house of the same, and also upon the church, if any there be, post and publish a notice in writing of the places and times when and where he or they will attend within their respective districts to administer such oath or affirmation; and all such persons who are inhabitants of the said districts respectively (and it is declared that a residence of one week shall in this instance constitute any person an inhabitant, seafaring persons and foreign traders excepted) being above the age of sixteen years, and of sound mind, shall at such time attend upon such justice of the peace, and take the oath or affirmation required, as the case may be, and subscribe the same in a book which such justice or justices shall keep for that purpose, or in case of such juror or affirmant not being able to write, the justice shall write such juror or affirmant's name, which book or list shall at the next succeeding court be returned to the said court, together with the names of those within his or their respective district refusing or neglecting the same; and if any person (such only as are by this act excepted) shall fail to attend, or attending at such time and place as he shall have been warned by such public notice, shall refuse to take the oath, or make such affirmation, as the case may be, except excused by sickness or unavoidable necessity, or other sufficient reason, to be adjudged of by the next county court, the party offering such excuse proffering at the same time to take such oath or affirmation, as the case may be, which in this case such county court are directed to administer, such person or persons so offering, shall be ordered by the said county court next after such failure or neglect, to take the said oath, or quit the state, and depart to the West-Indies or Europe in sixty days; and if he or they shall fail so to do, and shall at the expiration of such term be found within this state, then the county court shall and may, at their discretion, either exercise the same power and authority with respect to such person or persons, in order to compel his or their departure out of this state, as is herein before provided, with regard to the late officers of the King of Great-Britain, and persons who have traded to Great-Britain or Ireland within ten years last past, or been concerned for, or employed by persons trading thereto, within the time aforesaid, or permit him to remain within the state.

County divided into districts, and oath to be administered.

Proceedings against persons liable to take the oath, who neglect or refuse.

IX. *And be it further enacted by the authority aforesaid*, That all persons failing or refusing to take the oath of allegiance, and permitted by the county courts, as immediately aforesaid, to remain in the state, shall be adjudged incapable and disabled in law to have, occupy or enjoy, any office, appointment, licence, or election of trust or profit, civil or military, within this state, and shall not be capable of being elected to, or aiding by their votes to elect another to be a member of assembly, and shall not by themselves, or by deputy, attorney or trustee, execute any such office, trust or appointment, and shall be disabled to prosecute any suit at law or equity, or to be guardians, executors or administrators, or capable of any legacy, or deed of gift of lands, and shall be disabled from taking any lands by descent or purchase, or conveying lands to others for any term longer than for one year, and shall not keep guns or other arms within his or their house, but the same may be seized by a written order of a justice of the county in which he or they reside; and after the expiration of the said sixty days, he or they shall not be permitted to depart this state without permission first had and obtained from the governor and council; and in case of being suffered to depart, shall give bond and sufficient security, if such shall be required, not to be aiding to the enemies of this state during his or their absence; and in case of their departure without such permission had, he or they shall forfeit all their goods and chattels, lands and tenements, to the use of the state. *Provided nevertheless*, That all and every person who has already taken the oath, or made the affirmation prescribed, before any authority competent by law to receive the same, upon his producing a certificate of the same to

Disabilities of persons suffered to remain.

Proviso,

232 2, 1777. the justice or justices appointed to administer the said oath or affirmation in their respective district where he resides, shall be held and deemed a good subject of the state, and shall enjoy the privileges thereof, as if he had made such oath or affirmation in manner as by this law directed.

Pen. for return-
ing. X. *And be it further enacted by the authority aforesaid,* That if any person who has been banished this state for not having taken the oath of allegiance, or made the affirmation agreeable to the aforesaid act, passed the last session of assembly, shall return hither, or who may be banished in consequence of this act, then such persons shall be held and deemed guilty of treason against the state, and shall and may be dealt with in like manner as is herein directed in cases of treason.

Repealing
clause. XI. *And be it further enacted by the authority aforesaid,* That all and every other act and acts, and every clause and article thereof, heretofore made, within the purview of this act, is and are hereby repealed and made void, to all intents and purposes.

XII. *Hud its effect.*

CHAP. 7.

1779, 5.

1781, 15.

1783, 16.

1785, 17, 18.

Overseers of the
poor to be elec-
ted in each
county.

Vcl. 2, 24, 45.
120.

Sheriff to ad-
vertise.

Overseers to
take the oaths.

Pen. for ne-
glecting, &c.

Wardens pen.
for refusing to
serve.

An act for making provision for the poor, and for other purposes.

I. **B**E it enacted by the General Assembly of the state of North-Carolina, and it is hereby enacted by the authority of the same, That the freemen in each and every county in the state shall meet on Easter Monday next after the passing of this act, at the court-house, or place where the county court is commonly held, and on the same day, and at the same place, in every three years thereafter, then and there to elect seven freeholders to serve as overseers of the poor; and the sheriff, or his deputy, is hereby directed to set up an advertisement at the place of election in each county, appointing a day for the meeting of the overseers to be elected, which day shall not be less than ten, and not more than thirty days after the election; and the said sheriff, or his deputy, shall also summon each and every overseer to meet on the day so appointed at the court-house, or usual place of holding court in each respective county, to be qualified according to the directions of this act; and if the sheriff shall fail to appoint and advertise a day of meeting as aforesaid, or shall fail to summon each and every overseer in his county to attend on such day, such sheriff shall forfeit and pay the sum of ten pounds for the default first mentioned, and the sum of five pounds for every overseer not summoned as aforesaid, to be levied and applied as herein after directed: and the sheriff shall be paid by the county the sum of two shillings and eight pence for every overseer he shall summon.

II. *And be it enacted by the authority aforesaid,* That the sheriff in each respective county shall advertise at the court-house, and other public places, the day of holding the election of overseers of the poor, at least ten days before such election, under the penalty of ten pounds for neglect; and the elections of such overseers shall be held and conducted in the same manner, and under the same regulations, as elections of members of the house of commons.

III. *And be it further enacted by the authority aforesaid,* That the overseers of the poor so elected, shall at the first meeting next after such election, take before some magistrate the oath by law appointed to be taken by public officers, and shall repeat and subscribe the following oath in a book to be by them kept for that purpose, to wit,

"I A. B. do swear, that I will honestly and faithfully discharge my office as overseer of the poor, to the best of my skill and ability, according to law."

And every overseer so elected and qualified, shall be deemed and taken to be an overseer of the poor in the county for which he was elected for three years.

IV. *And be it further enacted by the authority aforesaid,* That every person elected an overseer of the poor according to this act, who shall refuse or neglect to qualify as aforesaid, shall forfeit and pay five pounds, to be recovered by the wardens before any magistrate, and applied to the use of the poor; and the other persons chosen and qualified as aforesaid, shall elect one or more freeholder or freeholders, instead of him or them so refusing or neglecting; and such person or persons so chosen shall, after being qualified in manner aforesaid, be held to be a legal overseer of the poor to all intents and purposes.

V. *And be it further enacted by the authority aforesaid,* That the overseers in each respective county, or a majority of them, shall at their first meeting elect two of their members to execute the office of county wardens for one year; and if the persons so elected shall refuse to execute the office of county wardens, he or they shall forfeit and pay the sum of twenty pounds, to be recovered and applied as herein after directed; and in such case, and also in case of the death of any county warden, or expiration of the term of appointment, or removal out of the county, the said overseers may proceed to elect another war-

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Courts, their
Power, &c.

of the said Courts, but the Justices of the Supreme Courts of this State, and the Judges and Justices of the respective Counties in which the said Courts shall be appointed to be held; and such Courts of Oyer and Terminer and General Gaol Delivery so constituted, appointed, and commissioned, shall, and they are hereby declared to have all the Power, Jurisdiction and Authority which such Courts have heretofore held, used and exercised, in this State under the former Government; and all the Proceedings, Transactions and Adjudications of such Courts heretofore appointed and commissioned in Manner aforesaid within the present Year, are hereby declared to be valid and effectual to all Intents and Purposes.

Justices at-
tending such
Courts, how
to be paid.

3. AND BE IT ENACTED by the Authority aforesaid, That when the Governor or Commander in Chief for the Time being, with the Consent of the Council (any three whereof to be a Quorum) shall think it necessary by Commission to appoint a Court of Oyer and Terminer and General Gaol Delivery in any of the Counties of this State, such of the Justices of the Supreme Court, who shall attend and hold the Courts of Oyer and Terminer and General Gaol Delivery so as aforesaid appointed, shall be paid in the Manner and Proportion as is set forth in an Act, entitled, *An Act for the Support of Government of the State of New-Jersey, to commence the twenty-seventh Day of August One Thousand Seven Hundred and Seventy-six, and to end the second Tuesday in October One Thousand Seven Hundred and Seventy-seven, and to discharge the publick Debts and contingent Charges thereof.* PROVIDED ALWAYS, that the last Section of this Act shall be and continue in Force until the End of the next Sitting of General Assembly, and no longer.

Limitation of
the last Section.

Passed at Haddonfield, September 20, 1777.

C H A P. XL.

An ACT for constituting a Council of Safety.

Preamble.

WHEREAS the Act, entitled, *An Act for investing the Governor and a Council consisting of twelve, with certain Powers therein mentioned, for a limited Time*; and the Act, entitled, *An Act for rendering more effectual two certain Acts therein mentioned*; have expired by their own Limitation: AND WHEREAS it is still necessary to the Preservation of the State, that the executive Powers of Government should be strengthened and exercised with all possible Vigour and Efficacy; therefore,

Members of
the Council
of Safety.

SECT. 1. BE IT ENACTED by the Council and General Assembly of this State, and it is hereby Enacted by the Authority of the same, That the Honourable Silas Condict, William Paterson, Nathaniel Scudder, Theophilus Elmer, Esquires, John Hart, Benjamin Manning, Peter Tallman, John Mehelm, Caleb Camp, Jacob Drake, Jonathan Bowen, John Combs, John Buck, William Peartree Smith, Frederick Freelinghuysen, and Edward Fleming, Esquires, (any five of whom to be a Quorum) be, and they hereby are constituted and appointed a Council of Safety, whereof His Excellency William Livingston, Esquire, or the Governor or Commander in Chief for the Time being, shall be President, with the Style and Title

WILLIAM LIVINGSTON, Esquire, Governor.

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Title of *The President, and Council of Safety for the State of New-Jersey*; and that they be invested with all the Powers and Authorities herein expressed, during the Continuance of this Act.

2. AND BE IT ENACTED *by the Authority aforesaid*, That every Member of the said Council shall be and he is hereby invested with all the Authority and Powers of a Justice of the Peace throughout this State, and that the said President and Council of Safety shall be deemed and taken to be a Board of Justices for and throughout this State, invested with all the Authority and Powers of any one or more Justices of the Peace, as the Case may require, during the Continuance of this Act: PROVIDED NEVERTHELESS, That it be in their Option to act or not in that Capacity in Matters of a civil Nature.

Powers in-
vested in
them.

3. AND BE IT ENACTED *by the Authority aforesaid*, That the President be, and he is hereby fully empowered, by and with the Advice and Consent of the Council aforesaid, (any five of which to be a Quorum) to fill up any military Office which is or shall become vacant by the Death, Resignation, Removal, or otherwise of any military Officer; and that the Person so appointed to any Office shall, nevertheless, be approved of or rejected by the Council and Assembly of this State, in Joint-Meeting, at the next Sitting of General Assembly next after such Appointment.

Who to fill
up vacant Mi-
litary Offices,

4. AND BE IT ENACTED *by the Authority aforesaid*, That the President be and he is hereby empowered, by and with the Advice of the Council aforesaid, (any five of whom to be a Quorum) to apprehend any Person disaffected to, or acting against the Government, or whom they shall suspect of being disaffected to, or of having dangerous Designs against the Government, and such Person to commit to any Gaol within this State.

And apprehend
disaf-
fected Per-
sons.

5. AND BE IT ENACTED *by the Authority aforesaid*, That any Dwelling House, Out-House, or Guard-Room, in which the President and Council aforesaid shall confine any Person for any Offence committed against this State, the Laws, or Government thereof, shall be deemed and adjudged a legal Gaol for that Purpose. AND IT IS FURTHER ENACTED, That the President, by and with the Advice of the Council aforesaid, (any five of whom to be a Quorum) shall be, and he is hereby authorized to remove any Person already, or who hereafter shall be apprehended or imprisoned for any Offence against the Government, from the Gaol in which he may stand committed, to any other within this State, and so from Time to Time, and from Gaol to Gaol, as may be deemed necessary or expedient.

Houses deem-
ed legal
Gaols.

Persons con-
fined, by
whom re-
moved.

6. AND BE IT ENACTED *by the Authority aforesaid*, That the President and Council aforesaid, (any five of whom to be a Quorum) be, and they are hereby empowered and directed to cause the Laws of this State to be faithfully executed, and to expedite, as far as may be, the Execution of such Measures as shall have been, or may be resolved upon by the Legislative-Council and General Assembly of this State, and to recommend it to the Speaker to call the General Assembly when necessary, before the Day to which they shall stand adjourned.

Council of
Safety, their
Duty.

A a

7. AND

President em-
powered to
call out the
Militia, &c.

7. AND BE IT ENACTED *by the Authority aforesaid*, That the President, by and with the Advice of the Council aforesaid, (any five of whom to be a Quorum) shall be, and he is hereby empowered to call out such and so many of the Militia of this State as they shall think necessary to carry their lawful Orders and Directions into Execution, as well as a Guard for their own Security and Defence, which Militia so called upon shall not be entitled to commute for their actual Service by any Fine or Forfeiture, but shall be compellable to serve, and in Consideration of such Service shall be excused from their next Tour of military Duty, in Proportion to the Number of Days they have so served (except in Cases where the whole Militia is called out) and shall have the same Pay and Rations as when on military Duty. AND IT IS FURTHER ENACTED, That the President, by and with the Advice and Consent of the Council aforesaid, is hereby authorized to carry all their lawful Orders and Directions into Execution by any such Detachment of the Troops in the Service of the United States as he may be able to procure for that Purpose, at the Expence of the said States.

Persons de-
clared guilty
of Felony,

8. AND BE IT ENACTED *by the Authority aforesaid*, That if any Person being a Member of, or owing Allegiance to this Government, as described in the first Section of the Act, intituled, *An Act to punish Traitors and disaffected Persons*, shall be apprehended on his Way to the Enemy with Intent to go into their Lines or Encampments, or into any Place in their Possession, without the License, Permission or Passport of the Commander in Chief of the Army of the United States of *North-America*, or of the Governor or Commander in Chief of this State for the Time being, or of some General Officer of the Army of the said United States, or of the Major General or one of the Brigadiers General of the Militia of this State, such Person is hereby declared to be guilty of Felony, and, being thereof legally convicted, shall suffer Death without Benefit of Clergy. PROVIDED NEVERTHELESS, That if any Person so offending as aforesaid shall, at the Time of his Examination before the President and Council of Safety aforesaid, or within five Days thereafter, declare his Willingness to enlist, and shall actually enlist with the Leave of the President and Council aforesaid, to serve on Board any of the Vessels of War belonging to the United States, it shall be lawful for them to suffer him so to enlist, and thereupon to discharge him from his Confinement, and such his Enlistment shall be deemed a full Pardon of his Offence aforesaid, any Thing herein before contained to the contrary notwithstanding.

May, with
Leave, enlist.

Other Persons
declared guil-
ty of Felony.

9. AND BE IT ENACTED *by the Authority aforesaid*, That if any Person, being a Member of, or owing Allegiance to this Government, as described in the first Section of the Act, intituled, *An Act to punish Traitors and disaffected Persons*, who hath, since the fourth Day of *October* last, voluntarily gone into any of the Enemy's Lines or Encampments, or into any Place in their Possession, shall return to any Part of this State in a secret or clandestine Manner, or without any Leave, License or Passport previously obtained from the Governor or Commander in Chief of this State for the Time being, or President of the Council of Safety, or from a General Officer of the Army of the United States, or of the Major General, or one of the Brigadiers General of the Militia of this State, such Person is hereby declared to be guilty of Felony,

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lony, and, being thereof legally convicted, shall suffer Death without Benefit of Clergy. PROVIDED NEVERTHELESS, That he may enlist as aforesaid; and that such Enlistment shall be considered and operate in like Manner as the Enlistment of a Person committing the Offence specified in the last preceding Section of this Act.

May also enlist.

10. AND BE IT FURTHER ENACTED *by the Authority aforesaid*, That if any Woman being a Subject of, or owing Allegiance to this Government, as aforesaid, shall be apprehended on her Way to the Enemy, with Intent to go into their Lines or Encampments, or into any Place in their Possession without such License, Permission or Passport as aforesaid, or having so gone into the same, shall return to any Part of this State without such License, Permission or Passport, as aforesaid, every Woman so offending, shall, for the first Offence, be fined and imprisoned at the Discretion of the Court, provided that such Fine do not exceed *Three Hundred Pounds*, nor the Imprisonment one Year, and for the second Offence is declared to be guilty of a capital Felony, and, being thereof convicted, shall suffer Death accordingly.

Women detected going to the Enemy, how punished.

11. AND BE IT FURTHER ENACTED *by the Authority aforesaid*, That the President and Council aforesaid are hereby authorized and empowered to grant Passports or Permissions to pass through any Parts of this State; and also to authorize such and so many Persons in every County within the same, to grant such Passports or Permissions, and under such Regulations as they shall think necessary; and to detain under Guard all Persons suspected of dangerous Designs against the State, travelling without such Passports or Permissions, until they shall satisfy the said President and Council aforesaid, or the Persons by them so authorized of their being well-affected to the State, and of their travelling without any Designs injurious to it: And every Person who shall be convicted of counterfeiting any such Passports or Permissions, shall suffer six Months Imprisonment.

Passports, who to grant them.

Punishment for counterfeiting them.

12. AND BE IT ENACTED *by the Authority aforesaid*, That it shall and may be lawful for the President and Council aforesaid, to send into the Enemy's Lines such of the Wives and Children of Persons lately residing within this State, who have gone over to the Enemy, as they shall think necessary.

Who may be sent within the Enemy's Lines.

13. AND WHEREAS by Reason of the Irruption of the Enemy into several Parts of this State, and the Arts and Influence of disaffected Persons residing in the same, either no Trial at all, or no fair and impartial Trial of Traitors and disaffected Persons can be had in several Counties of this State; BE IT THEREFORE ENACTED *by the Authority aforesaid*, That every Person who shall be charged with, or committed for any of the Crimes or Offences specified in the first, second, or third Sections of the said Act, intituled, *An Act to punish Traitors and disaffected Persons*, or who shall be charged with or committed for Misprision of Treason, or for any Crime or Offence specified in the eighth or ninth Section of this Act, or who shall be charged with, or committed for any of the Crimes or Offences specified in the second Section of an Act, intituled; *An Act to render certain Bills of Credit a legal Tender within this State, and to prevent the Counterfeiting of the same, and other Bills*

Trial of Traitors, &c. where may be held.

Proviso.

Bills of Credit, may be tried for the same in any County of this State, by a Jury of that County, at the Discretion of the President and Council aforesaid, although the Offence he be charged with, or was committed for, was done and perpetrated in any other County, any Law, Usage, or Custom to the contrary thereof in anywise notwithstanding. PROVIDED NEVERTHELESS, That the President and Council of Safety aforesaid may permit any Person suspected of or charged with any of the Crimes or Offences specified in the first, second, or third Sections of the Act aforesaid, intituled, *An Act to punish Traitors and disaffected Persons*, or who shall be charged with or suspected of Misprision of Treason, to enlist on Board any of the Vessels of War belonging to the United States, instead of confining them for Trial; and such Enlistment shall be deemed in full Pardon of the said Crime or Offence; any Law to the contrary thereof notwithstanding.

Suspicious
Persons refus-
ing to take the
Oaths, how
punished.

14. AND WHEREAS it is inconsistent with every Principle of civil Society and social Justice, that any Person, but more especially such as from his Abilities, Affluence, or Rank in Life, may have great Influence over others, should be suffered to remain in and be protected by a Government to which he refuses Fidelity and Allegiance: AND WHEREAS some such Persons, through the Tolerance and Lenity of the present Government, and in Expectation of their becoming good Subjects, have been suffered to continue in the same, and to enjoy all the Benefits of Government in common with others the faithful Subjects of the State: AND WHEREAS it is at Length highly necessary to discriminate the Friends of Government from its Foes, and to deal with the latter agreeably to their respective Demerits; BE IT THEREFORE ENACTED by the Authority aforesaid, That if any Person who shall be convened before the President and Council aforesaid by Warrant, Summons, or otherwise, on Suspicion of being dangerous or disaffected to the present Government, shall neglect or refuse to take the Oaths of Abjuration and Allegiance set forth in an Act, entitled, *An Act for the Security of the Government of New-Jersey*, passed the nineteenth Day of September One Thousand Seven Hundred and Seventy-six, upon the same being tendered to him by them, and such Person shall appear to the President and Council too dangerous to the State to be suffered to go at Large upon giving Security to appear at the next Court of General Quarter Sessions of the Peace, and to be in the mean Time of good Behaviour, the President and Council aforesaid are hereby authorized and empowered to commit such Person to close Gaol, and certify the same with the Cause of Commitment, under the Hand and Seal of the President, to the next Court of General Quarter Sessions of the Peace; where, if such Person shall refuse to take the said Oaths he shall be bound to his good Behaviour, or be fined or imprisoned as the Court shall deem necessary, any Thing in the said Act, intituled, *An Act to punish Traitors and disaffected Persons* to the contrary thereof notwithstanding. And if any Person, so as aforesaid convened, and refusing to take the said Oaths of Abjuration and Allegiance, shall be suspected by the President and Council aforesaid to be too dangerous to the State to be suffered any longer to remain within the same, the said President and Council are hereby authorized and empowered to appoint a Time and Place for the Hearing of such suspected Persons by himself or his Council, who shall be permitted to introduce such Evidence as may be in his Power to remove such Suspicion,

May be sent
within the
Enemy's
Lines.

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Suspicion, of which Time and Place of Hearing at least eight Days Notice shall be given to such suspected Person, and the said Person shall be entitled to have Subpœnas or Summonses for his Witnesses, and if after such Hearing and Trial the said President and Council (five whereof at least being the Quorum) shall be unanimously of Opinion that the said Person, so as aforesaid suspected, is too dangerous to the State to be suffered to remain within the same, and such Person shall not, before such Opinion shall be pronounced voluntarily take the said Oaths of Abjuration and Allegiance before the said President and Council or other competent Authority, it shall and may be lawful for the said President and Council to send such Person, together with such Parts of his Family as they shall think proper into the Lines of the Enemy; and if such Person, during the present War, waged and carried on by the King of Great-Britain against the United States of North-America, shall return into this State without Permission first obtained from the Commander in Chief of this State, for the Time being, with the Advice of the Privy Council, he shall be adjudged guilty of Felony; and, being duly convicted thereof, shall suffer Death without Benefit of Clergy. PROVIDED ALWAYS, That such Person shall be permitted to constitute and appoint one or more Attorneys or Agents to settle his Affairs, and to sell or otherwise dispose of all his Estate, Real and Personal, for his own proper Use and Benefit.

And have Liberty to appoint Agents.

15. AND BE IT ENACTED *by the Authority aforesaid*, That any Dwelling-House, Out-House or Guard-Room in which the President and Council aforesaid shall confine any Person for any Offence specified in the thirteenth Section of this Act, or committed against any of the Acts mentioned therein, shall be deemed and adjudged a legal Gaol for that Purpose.

Houses deemed legal Gaols.

16. AND BE IT ENACTED *by the Authority aforesaid*, That the President and Council aforesaid shall be, and they are hereby authorized to cause to be cleansed, such of the Towns of this State in which any Troops have been quartered, as they shall think necessary, to prevent infectious Distempers.

Towns to be cleansed.

17. AND WHEREAS the Enemy have lately adopted the mean and unmanly Practice of encouraging our disaffected Subjects, secretly to apprehend and convey into their Lines, such of the loyal Subjects of this State as have rendered themselves obnoxious to their Resentment, on Account of their singular Patriotism and more eminent Services to their Country, BE IT THEREFORE ENACTED *by the Authority aforesaid*, That it shall and may be lawful, for the President and Council of Safety aforesaid, forthwith, and from Time to Time hereafter, to apprehend and imprison such and so many Persons disaffected to this State as they shall think sufficient to induce the Enemy to release such of the Subjects of this State as have already been, or hereafter may be, so secretly apprehended and conveyed away as aforesaid and detained by the Enemy, until they shall be released and set at Liberty to return to their respective Places of Abode. And the President and Council aforesaid, are hereby empowered to negotiate an Exchange of the Persons disaffected to the State, so as last aforesaid apprehended and imprisoned for such of the Subjects of this State as already have been, or hereafter may be, so

Kidnaping, Mode of Retaliation, &c.

secretly apprehended and conveyed away, and detained by the Enemy. And that such Persons so apprehended and exchanged by the President and Council aforesaid, shall have the Benefit of the Proviso Clause contained in the fourteenth Section of this Act.

Beacons may
be erected.

18. AND BE IT ENACTED *by the Authority aforesaid*, That the President and Council of Safety aforesaid be, and they hereby are empowered to erect and fix Beacons and Alarm-Posts in such Places in this State as they shall judge most proper.

Electors neglecting to
choose Representatives,
who to fix a
Day, &c.

19. AND WHEREAS by the Irruption of the Enemy into this State, and their Vicinity to some of the Places of holding the Elections for Representatives to serve in the Legislative-Council and General Assembly, it may be impracticable to hold Elections in some of the Counties at the Time and Places appointed by Law; THEREFORE, BE IT ENACTED *by the Authority aforesaid*, That in case the Electors in any of the Counties of this State shall not proceed to the Choice of Representatives, to serve in the said Legislative-Council and General Assembly, at the Time and Places appointed by an Act, intituled, *An Act for regulating the Election of the Members of the Legislative-Council and Assembly, Sheriffs and Coroners of the State of New-Jersey*, the President and Council of Safety aforesaid are hereby empowered and directed to fix and appoint for the County, so as aforesaid destitute of Representatives, such Day and Place in the said County as they shall judge most expedient; and the Election so held shall be conducted and Return thereof made in the Manner set forth in the Act last mentioned; and thereupon such Election and Return shall be deemed and taken to be good and valid to all Intents and Purposes as if the same had been made at the Times and Places by the said Act directed. AND BE IT FURTHER ENACTED, That if it so happen, that on the Day appointed in the Act last aforesaid, for the Meeting of the Legislature at *Trenton*, a Number of Representatives sufficient to constitute a House shall not attend, whereby Business cannot be proceeded upon; in such Case the President and Council of Safety aforesaid shall be, and they hereby are empowered and directed, as soon as possible after the Election or Elections by them appointed to be held, to issue Citations for calling together and convening the Legislature on such Day, and at such Place as they shall appoint.

Council of
Safety to disarm
disaffected
Persons.

20. AND BE IT ENACTED *by the Authority aforesaid*, That the President and Council aforesaid be, and they hereby are empowered and directed to deprive and take from such Persons as they shall judge disaffected and dangerous to the present Government, all the Arms, Accoutrements and Ammunition which they own or possess; and the said President and Council are hereby authorized to pay for such Arms, Accoutrements and Ammunition, or any of them, such Sum as shall be ascertained by two or more Appraisers under Oath, which said Arms, Accoutrements and Ammunition shall be delivered, for the Use of the State, to the Commanding Officer of the Battalion in whose District such disaffected Person resides.

Governor's
Absence, &c.
how supplied.

21. AND BE IT ENACTED *by the Authority aforesaid*, That whenever His Excellency *William Livingston*, Esquire, or the Governor or Commander in Chief for the Time being, by Reason of his Absence out of this State, or of Sickness though within it, or by any other reasonable

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able Impediment, is prevented from attending the Council of Safety, or in case there be no Governor or Commander in Chief elected in due Time and Season, the said Council of Safety are hereby empowered in such Case to elect a President; and the Person so elected shall be, and is hereby invested with the same Power and Authority as the said *William Livingston*, Esquire, or the Governor or Commander in Chief, for the Time being, is invested with by this present Act.

22. AND BE IT ENACTED *by the Authority aforesaid*, That the President and Council aforesaid shall have a Secretary, and keep fair Books of their Proceedings; which Secretary shall be allowed such Compensation for his Time and Trouble as the said President and Council shall judge adequate and proper.

Secretary to be appointed, &c.

23. AND BE IT ENACTED, That the Expences of the President of the said Council of Safety, during the Time he shall attend in the Council aforesaid, shall be defrayed by this State; and that every Member of such Council shall, during his Attendance in Council, be allowed at the Rate of *Twenty Shillings* a Day, to be paid by the Treasurer, on Certificate thereof signed by the President.

Expences to be paid by the State.

24. AND BE IT ENACTED *by the Authority aforesaid*, That the said President, by and with the Consent of the Council aforesaid be, and he is hereby empowered to draw on the Treasurer of this State for any Sum of Money which may be necessary from Time to Time in the Exercise of the Powers aforesaid, not exceeding the Sum of *Two Thousand Pounds*; and the said Treasurer is hereby authorized to pay any Order drawn as aforesaid. PROVIDED ALWAYS, That the said President and Council of Safety shall be, and are hereby made accountable to the Legislature of this State for any Sum or Sums of Money drawn from the Treasury of this State by Virtue of this Act.

President to draw on the Treasury.

Proviso.

25. AND WHEREAS sundry disaffected Persons, charged with high Crimes, have been lately apprehended and seized by the Militia of this State; and are now kept under Guard, and more Instances of the like Kind may happen: AND WHEREAS it may be found necessary to keep a military Guard over such Prisoners till they shall be brought to Trial; BE IT ENACTED, That it shall and may be lawful for the President of the said Council of Safety for the Time being, with the Advice and Consent of the said Council (any five whereof to be a Quorum as aforesaid) to nominate and appoint such Person or Persons as the said President and Council shall from Time to Time think proper to provide for such Prisoners and the Guards, the said President and Council shall think it necessary to appoint for keeping such Prisoners securely; and the Treasurer is hereby directed to pay to such Person or Persons so appointed, such Sum or Sums of Money as the said President by Warrant or Warrants under his Hand in the said Council of Safety shall order; for which Sum or Sums the Person or Persons receiving the same, shall account to the Council and General Assembly at their next Sitting after the same shall be so received.

Prisoners, &c. how to be supported.

26. AND WHEREAS it frequently happens that General Officers, and other commanding Officers of Posts or Detachments of the Militia, have

Expenses, by whom paid.

have Occasion to send Dispatches to the Governor, or to distant Posts by Express, BE IT FURTHER ENACTED *by the Authority aforesaid*, That it shall and may be lawful for the said President and Council of Safety to order the Payment (out of the Money so as aforesaid by them to be drawn from the Treasury) of all such necessary Expences for such Services as they shall adjudge proper, which have accrued since the fifteenth Day of March last, or shall accrue hereafter during the Continuance of this Act.

Continuance. 27. AND BE IT ENACTED *by the Authority aforesaid*, That this Act shall continue in Force to the End of the next Sitting of the General Assembly, and no longer.

Passed at Haddonfield, Sept. 20, 1777.

C H A P. XLI.

An A C T to ascertain the Punishment for High Treason, and to establish the Word State instead of Colony in Commissions, Writs and other Procefs; and for other Purposes therein mentioned.

Preamble.

WHEREAS some Doubts may arise in the Courts of Judicature respecting the Sentence in High Treason, the same not being as yet precisely ascertained; therefore,

Sentence in High Treason ascertained.

Section 1. BE IT ENACTED *by the Council and General Assembly of this State, and it is hereby Enacted by the Authority of the same*, That when any Person shall be duly convicted of High Treason, the Sentence awarded therefor, so far as respects the corporal Punishment to be inflicted on the Offender, shall be the same as in case of Murder. *PROVIDED ALWAYS*, That this Restriction of the corporal Punishment shall not be deemed or construed to save the Forfeiture of the Estate of such Offender where the same would otherwise have been forfeited; nor in any Manner to alter or affect the Doctrine and Law respecting High Treason, other than is herein plainly expressed.

Proviso.

Establishment of the Word State instead of Colony.

2. AND WHEREAS in the fifteenth Section of the Constitution of *New-Jersey*, it is directed and ordained, that all Commissions shall run thus, *The Colony of New-Jersey to A. B, &c. (Greeting*; and that all Writs shall likewise run in the Name of the Colony; and that all Indictments shall conclude in the following Manner, *viz. against the Peace of this Colony, the Government and Dignity of the same*: AND WHEREAS since the framing of the said Constitution, the Honourable Congress have declared the United Colonies Free and Independent States: AND ALSO WHEREAS since the Declaration of Independency, the Commissions and Writs have run in the Name of the *State*, and not of the *Colony of New-Jersey*, and Indictments have concluded against the Peace of this *State* and not of this *Colony*, and some Doubts may arise respecting the Validity of Commissions, Writs and Indictments so as aforesaid worded; BE IT THEREFORE ENACTED *by the Authority aforesaid*, That, from and after the Publication of this Act, all Commissions

in General Assembly met, and by the authority of the same, That all the bills of credit declared to be legal tender by the said first-recited act and also bills of credit emitted and to be emitted by virtue of the said last-recited act shall be legal tender, not only to those persons and creditors therein mentioned, but also to all bodies politic and corporate which said bodies shall be deemed and taken to be subject in all respects to all the fines and forfeitures in the said acts mentioned which the persons or creditors therein named are or ought to be subject to for any offense committed against the above-recited acts as fully and effectually to all intents and purposes as if the said bodies politic or corporate had been expressly named in the said act.

Passed June 13, 1777. See the notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; January 29, 1777, Chapter 738. Repealed by the Act of Assembly passed June 21, 1781, Chapter 945.

CHAPTER DCCLVI.

AN ACT OBLIGING THE MALE WHITE INHABITANTS OF THIS STATE TO GIVE ASSURANCES OF ALLEGIANCE TO THE SAME AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Section I, P. L.) Whereas by the separation of the thirteen United States from the government of the crown and parliament of Great Britain (who by their acts of oppression and cruelty as set forth in the declaration of independence by Congress bearing date the fourth day of July one thousand seven hundred and seventy-six had rendered such separation on the part of the said states absolutely necessary for their own happiness and the happiness of succeeding generations) the good people of this state of Pennsylvania are become free and independent of the said crown and parliament:

(Section II, P. L.) And whereas from sordid and mercenary motives or other causes inconsistent with the happiness of a free and independent people sundry persons have or may yet be induced to withhold their service and allegiance from the

1777] *The Statutes at Large of Pennsylvania.*

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commonwealth of Pennsylvania as a free and independent state as declared by Congress:

And whereas sundry other persons in their several capacities have at the risk of their lives and the hazard of their fortunes or both rendered great and eminent service in defense and support of the said independence and may yet continue to do the same, as both those sorts of persons remain at this time mixed and in some measure undistinguished from each other, the disaffected deriving undeserved service from the faithful and well affected:

And whereas allegiance and protection are reciprocal, and those who will not bear the former are not nor ought not to be entitled to the benefits of the latter:

Therefore:

[Section I] Be it enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That all male white inhabitants of this state (except of the counties of Bedford, Northumberland and Westmoreland) above the age of eighteen years shall on or before the first day of July next take and subscribe the following oath or affirmation before some one of the justices of the peace of the city or county where they shall respectively inhabit; and the inhabitants of the said counties of Bedford, Northumberland and Westmoreland above said age shall on or before the first day of August next take and subscribe the said oath or affirmation before some one of the justices of the said three counties last-mentioned in which they shall respectively inhabit, and the said justice shall give a certificate thereof to every such person; and the said oath or affirmation shall be as followeth, viz.:

I,, do swear (or affirm) that I renounce and refuse all allegiance to George the Third, King of Great Britain, his heirs and successors, and that I will be faithful and bear true allegiance to the commonwealth of Pennsylvania as a free and independent state, and that I will not at any time do or cause to be done any matter or thing that will be prejudicial or injurious to the freedom and independence thereof, as declared by Congress; and also that I will discover and make known to some one justice of the peace of the said state all

treasons or traitorous conspiracies which I now know or hereafter shall know to be formed against this or any of the United States of America.

And the form of the said certificate shall be as followeth, viz.:

I do hereby certify that hath voluntarily taken and subscribed the oath (or affirmation) of allegiance and fidelity as directed by an act of general assembly of Pennsylvania, passed the day of, A. D. 1777. Witness my hand and seal the day of, A. D., (L. S.)

[Section II] (Section III, P. L.) And be it further enacted by the authority aforesaid, That the justice or justices of the peace before whom such oath or affirmation shall be subscribed shall keep fair registers of the names and surnames of the persons so sworn or affirmed and the time when, and shall on or before the first day of October in every year transmit in writing under his or their hands and seals to the office of recorder of deeds for the said city or county a true list of the names and surnames of those who within the same year have so sworn or affirmed before them respectively; and the said justice or justices shall have and receive therefor and for the said certificate the sum of one shilling and no more for every person so sworn or affirmed; and the said justice or justices shall lay their accounts before the county commissioners or any two of them from time to time to be examined and allowed; and the said commissioners shall draw orders on the county treasurers for such sums as shall be allowed, which orders the said treasurers are hereby authorized and required to pay out of the state taxes; and the recorders of deeds in the city and several counties of this state are hereby enjoined to record the said lists in books to be prepared for that purpose and shall be paid for the same in the same manner as the justices at the rate of five shillings for every hundred names.

[Section III] (Section IV P. L.) And be it further enacted by the authority aforesaid, That every person above the age aforesaid refusing or neglecting to take and subscribe the said oath or affirmation shall during the time of such neglect or refusal be incapable of holding any office or place of trust in this state, serving on juries, suing for any debts, electing or being elected, buying, selling or transferring any lands, tenements or heredita-

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ments, and shall be disarmed by the lieutenant or sub-lieutenants of the city or counties respectively.

(Section V, P. L.) And whereas there is a danger of having the seeds of discord and disaffection greatly spread by persons whose political principles are not known removing or traveling from one part of the state to another, and it is well known that this state is already become (and likely to be more so) an asylum for refugees flying from the just resentment of their fellow-citizens in other states:

For remedy whereof:

[Section IV] Be it enacted by the authority aforesaid, That every person above the age aforesaid who shall travel out of the county or city in which he usually resides without the certificate aforesaid may be suspected to be a spy and to hold principles inimical to the United States, and shall be taken before one of the justices nearest to the place where he shall be apprehended, who shall tender to him the said oath or affirmation, and upon his refusal to take and subscribe the said oath or affirmation the said justice shall commit him to the common gaol of the city or county, there to remain without bail or main-prize until he shall take and subscribe the oath or affirmation or produce a certificate that he had already done so.

[Section V.] (Section VI, P. L.) And be it enacted by the authority aforesaid, That all persons coming from any of the other United States into this state are hereby required to apply to one of the nearest justices after he enters this state and take and subscribe the said oath or affirmation upon the penalty of being dealt with as in the case of persons traveling or removing out of the city or county in which they usually reside unless he can produce a certificate that he has taken an oath or affirmation of the like nature in the state from whence he came.

(Section VII, P. L.) Provided always nevertheless, That delegates in Congress, prisoners of war, officers and soldiers in the continental army, merchants and marines trading in the ports of this state from foreign powers in amity with the United States and not becoming resident are declared not to be within the intent and meaning of this act.

[Section VI] (Section VIII, P. L.) And be it further enacted, That if any person shall forge such certificate as by this act is to be made out and given by one of the justices of the peace of this state, or shall cause or procure others to forge or counterfeit the name and seal of a justice of the peace to such certificate, or shall by erasing or otherwise taking out or covering or pasting over a man's name that was written in a true and genuine certificate alter the same so as to serve his own or any other man's purposes, or shall produce and make use of any such certificate knowing it to be forged or altered, every such person and persons so offending and being thereof legally convicted before any court of general quarter sessions of the peace of the city or county where such offense shall be committed shall be fined the sum of fifty pounds and be committed to gaol until he pays the fine and costs of prosecution and if he shall not within the space of thirty days satisfy the judgment of the court he shall be whipped with any number of lashes not exceeding thirty-nine on his bare back well laid on.

Passed June 13, 1777. See the Acts of Assembly passed October 12, 1777, Chapter 765; April 1, 1778, Chapter 796; September 2, 1778, Chapter 807; September 10, 1778, Chapter 813; December 5, 1778, Chapter 822; March 31, 1779, Chapter 836; October 1, 1779, Chapter 852; September 13, 1785, Chapter 1175; March 4, 1786, Chapter 1206; March 29, 1787, Chapter 1294; (repealed by the Act of Assembly passed) March 13, 1789, Chapter 1396.

CHAPTER DCCLVII.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR AMENDING THE SEVERAL ACTS FOR ELECTING MEMBERS OF ASSEMBLY."¹

(Section I, P. L.) Whereas by one of the said acts, entitled "An act to ascertain the number of members of assembly and to regulate the elections,"² passed in the year of our Lord one thou-

¹ Passed March 1, 1745-6, Chapter 364.

² Passed January 12, 1705-6, Chapter 137.

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CHAP. III.

An act to oblige the free male inhabitants of this state above a certain age to give assurance of Allegiance to the same, and for other purposes.

WHEREAS allegiance and protection are reciprocal, and those who will not bear the former are not entitled to the benefits of the latter, Therefore *Be it enacted by the General Assembly*, that all free born male inhabitants of this state, above the age of sixteen years, except imported servants during the time of their service, shall, on or before the tenth day of October next, take and subscribe the following oath or affirmation before some one of the justices of the peace of the county, city, or borough, where they shall respectively inhabit; and the said justice shall give a certificate thereof to every such person, and the said oath or affirmation shall be as followeth, viz. 'I do swear or affirm, that I renounce and refuse all allegiance to George the third, king of Great Britain, his heirs and successours, and that I will be faithful and bear true allegiance to the commonwealth of Virginia, as a free and independent state, and that I will not, at any time, do, or cause to be done, any matter or thing that will be prejudicial or injurious to the freedom and independence thereof, as declared by congress; and also, that I will discover and make known to some one justice of the peace for the said state, all treasons or traitorous conspiracies which I now or hereafter shall know to be formed against this or any of the United States of America.' And the form of the said certificate shall be as follows, to wit: 'I do hereby certify, that _____ hath taken and subscribed the oath or affirmation of allegiance and fidelity, as directed by an act of general assembly intitled *An act to oblige the free male inhabitants of this state above a certain age to give assurance of allegiance to the same, and for other purposes.* Witness my hand and seal, this _____ day of _____

All free born males, above 16 years old, to take the oath of allegiance.

Form of the oath.

A. B.'

And be it farther enacted, That the justice of the peace before whom such oath or affirmation shall be subscribed shall keep fair registers of the names of the

Justices to keep registers; and transmit re-

turns to
clerks of
courts,

names of the persons so sworn or affirmed, and the time when; and shall, on or before the first day of January in every year, transmit, in writing, under his hand and seal, to the clerk of the court of the county, city, or borough, a true list of the names of those who, within the same year, have so sworn or affirmed before them respectively.

Persons ap-
pointed to
tender oath.

And be it farther enacted, by the authority aforesaid, That within one month after the passing of this act, or at the next succeeding court, the court of every county in this commonwealth shall appoint some of their members to make a tour of the county, and tender the oath or affirmation aforesaid to every free born male person above the age of sixteen years, except as before excepted; and that in the certificate directed to be returned, of those who take the oath or affirmation, shall be mentioned the names of such as refuse. And the justices tendering such oath or affirmation are hereby directed to deliver a list of the names of such recusants to the county lieutenant, or chief commanding officer of the militia, who is hereby authorised and directed forthwith to cause such recusants to be disarmed.

Those refus-
ing to be no-
ted.

Recusants to
be reported
to county
lieutenant,
who is forth-
with to dis-
arm them.

Person dis-
armed com-
pelled to at-
tend musters
but exempt-
ed from fines
for not ap-
pearing
armed.
Incapacities
of those re-
fusing to
take the oath
of allegi-
ance.

Provided, That the person so disarmed shall, nevertheless, be obliged to attend musters, but shall be exempted from the fines imposed for appearing at such musters without arms, accoutrements, and ammunition.

And be it farther enacted, That every person above the age before mentioned, except as before excepted, refusing or neglecting to take and subscribe the oath or affirmation aforesaid, shall, during the time of such neglect or refusal, be incapable of holding any office in this state, serving on juries, suing for any debts, electing or being elected, or buying lands, tenements, or hereditaments.

Oath to be
taken by:
those com-
ing from any
of the Uni-
ted States.

And be it farther enacted, That all persons coming from any of the other United States into this state are hereby required to apply to one of the nearest justices after he enters this state, and take or subscribe an oath or affirmation, renouncing all allegiance to the king of Great Britain, and promising that he will not do any thing prejudicial to the independence of the United States of America, as declared by the general congress; and upon neglecting so to do, he shall be liable to be taken before a justice, who shall tender him the said oath or affirmation, and upon his refusal to take and subscribe the same, the said justice shall, and is here-

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by required, to commit him to the jail of the county, city, or borough, there to remain without bail or mainprize, until he shall take and subscribe the said oath or affirmation, or give bond and security immediately to depart this commonwealth, which bond shall be payable to the governour, for the time being, for the use of the commonwealth.

Provided nevertheless, That prisoners of war, regular officers and soldiers in the pay of the continent or of this state, merchants and mariners trading in the ports of this state from foreign powers in amity with the United States, and not become resident, are declared not to be within the intent and meaning of this act.

Who not within the meaning of this act.

And be it farther enacted, That this act shall be publickly read by the sheriff of every county in this commonwealth at the door of the courthouse of his county, on some court day, on or before the first day of September next, and also by every minister of the gospel, or reader, immediately after divine service, at every church or meeting-house where they officiate, on some Sunday within the said time. And every sheriff, minister, or reader, failing so to do, shall forfeit and pay the sum of ten pounds, to be recovered, with costs, by the informer, before the court of the county where the offence shall be committed.

How this act to be published.

CHAP. IV.

An act for establishing a Loan office for the purpose of borrowing money for the use of the United States, and appointing a Commissioner for superintending the same.

[Chan. Rev. p. 50.]

I. WHEREAS the general congress, on the third day of October last, did resolve that five millions of continental dollars should be immediately borrowed for the use of the United States of America, for the re-payment of which money lent, at the end of three years, with the interest annually, at the place where the same is

United States, loan office established.

SECT. 20. That in all cases and at all times the military ought to be under strict subordination to and governed by the civil power.

Delaware Laws, vol. 1, App., p. 81.

4.1.3.2 Georgia: Constitution, 1777

XXXV. Every county in this State that has, or hereafter may have, two hundred and fifty men, and upwards, liable to bear arms, shall be formed into a battalion; and when they become too numerous for one battalion, they shall be formed into more, by bill of the legislature; and those counties that have a less number than two hundred and fifty, shall be formed into independent companies.

Georgia Laws, p. 13.

4.1.3.3 Massachusetts: Constitution, 1780

[Part I, Article] XVII. The people have a right to keep and to bear arms for the common defence. And as in time of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Massachusetts Perpetual Laws, p. 7.

4.1.3.4 New Hampshire: Constitution, 1783

[Part I, Article] XIII. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

New Hampshire Laws, p. 24.

4.1.3.5 New York: Constitution, 1777

XL. AND WHEREAS it is of the utmost Importance to the Safety of every State, that it should always be in a Condition of Defence; and it is the Duty of every Man who enjoys the Protection of Society, to be prepared and willing to defend it: This Convention therefore, in the Name and by the Authority of the good People of this State, doth ORDAIN, DETERMINE, AND DECLARE, That the Militia of the State, at all Times hereafter, as well in Peace as in War, shall be armed and disciplined, and in Readiness for Service. That all such of the Inhabitants of this State, being of the People called Quakers, as from Scruples of Conscience may be averse to the bearing of Arms, be therefrom excused by the Legislature; and do pay to the State such Sums of Money in Lieu of their personal Service, as the same may, in the Judgment of the Legislature, be worth: And that a proper Magazine of warlike Stores, proportionate to the Number of Inhabitants, be for ever hereafter at the Expence of this State, and by the Acts of the Legislature, established, maintained, and continued in every County of this State.

New York Laws, vol. 1, pp. 13–14.

4.1.3.6 North Carolina: Declaration of Rights, 1776

Sect. XVII. That the People have a Right to bear Arms for the Defense of the State; and, as standing Armies in Time of Peace are dangerous to liberty, they ought not to be kept up;

and that the military should be kept under strict subordination to, and governed by, the civil Power.

North Carolina Laws, p. 276.

4.1.3.7 Pennsylvania

4.1.3.7.a Constitution, 1776

CHAPTER I.

A DECLARATION of the RIGHTS of the Inhabitants of the State of Pennsylvania.

...

VIII. That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service when necessary, or an equivalent thereto: But no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent; nor are the people bound by any laws, but such as they have in like manner assented to, for their common good.

...

XIII. That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up: And that the military should be kept under strict subordination to, and governed by, the civil power.

Pennsylvania Acts, M'Kean, pp. ix–x.

4.1.3.7.b Constitution, 1790

ARTICLE IX.

...

SECT. XXI. That the right of citizens to bear arms, in defence of themselves and the state, shall not be questioned.

Pennsylvania Acts, Dallas, p. xxxvi.

4.1.3.8 Vermont: Constitution, 1777

CHAPTER I.

...

15. THAT that [sic] the People have a Right to bear Arms, for the Defence of themselves and the State:—And, as standing Armies, in the Time of Peace, are dangerous to Liberty, they ought not to be kept up; and that the military should be kept under strict Subordination to, and governed by, the civil Power.

Vermont Acts, p. 4.

4.1.3.9 Virginia: Declaration of Rights, 1777

XIII. THAT a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state; that standing armies, in time of peace,

PENNSYLVANIA RATIFYING CONVENTION, 1787

Commentary

The first state to ratify the federal Constitution was Delaware, which acted by a unanimous vote on December 2, 1787. The second state to act was Pennsylvania, where the struggle between supporters and opponents of the Constitution was a closer one. The Pennsylvania Convention met on November 20, 1787. The principal speeches in favor of the motion to ratify were delivered by James Wilson, and extracts from his remarks in support of the Constitution are included in the materials that follow. Of particular interest to us are his answers to the Bill of Rights argument of the Antifederalists. Wilson states that the framers' Convention had not even considered the addition of a Bill of Rights until the subject was mentioned three days before adjournment ("such an idea never entered the mind of many of them"), though he errs in saying no motion was even offered (*supra* p. 435). He repeats the standard argument against a Bill of Rights (made famous by *The Federalist* [*supra* p. 578]), that a Bill of Rights was both unnecessary, since the Federal Government was not given authority over individual rights, and dangerous, since it implied possession of such power by the Federal Government. Wilson turns around a common claim in favor of a Bill of Rights: What harm could its addition do? "If it can do no good, I think that a sufficient reason to refuse having any thing to do with it."

The Antifederalists sought to answer Wilson on these points, for the lack of a Bill of Rights was one of their main issues throughout the Convention debate. Extracts from their speeches (as well as some by supporters of Wilson) are included in the materials that follow. The principal Antifederalist speaker was Robert Whitehill. He emulated Wilson in seeking to turn around his opponents' argument: "Truly, Sir, I will agree that a bill of rights may be a dangerous instrument, but it is to the views and projects of the aspiring ruler, and not the liberties of the citizen." In the Constitution, he asserted, there is no adequate security for the liberties of the people; therefore, a Bill of Rights is vitally necessary. Of particular interest is the interchange between Messrs. Smilie and Whitehill, on the one side, and Messrs. Wilson and M'Kean, on the other.

Acute lawyer that he was, Wilson raised a shrewd legal objection to any action by the Pennsylvania Convention on a federal Bill of Rights. "But to whom are we to report this bill of rights, if we should adopt it? Have we authority from those who sent us here to make one?"

Legally speaking, of course, the Pennsylvania delegates had no authority to adopt any federal Bill of Rights or to give effect to any such adoption by them. But they could recommend amendments containing guarantees for individual rights. Moreover, if their example in this respect were followed by the other ratifying states, it would be most difficult for the first Congress to meet under the Constitution (which would have the authority to propose constitutional amendments) to ignore the combined recommendations, though they were without legal effect, strictly speaking.

At any rate, the Antifederalists in the Pennsylvania Convention acted on the view just stated. On December 12, 1787, Whitehill introduced 15 proposed amendments for the Convention to recommend as part of its ratification action (*infra* p. 658). The Convention rejected the proposed amendments by a vote of 46 to 23 and, later on that day, ratified the Constitution itself by the same majority. The minority then issued “The Address and Reasons of Dissent of the Minority of the Convention” (from which follow extracts, [*infra* p. 662]). This gave wide dissemination to the proposed amendments which were intended to meet the need for a federal Bill of Rights, itself asserted as “indispensable to ascertain and establish ‘those unalienable and personal’ rights of man.”

The amendments proposed by the Pennsylvania Convention minority are of great importance in the history of the federal Bill of Rights, for they pointed the way to be taken by states which desired to ratify the Constitution and, at the same time, wanted a Bill of Rights. Even the Federalist supporters of the Constitution (as we shall see in our discussion of the Massachusetts Convention) came to see that the Pennsylvania minority method was a means of defusing opposition to ratification. The example set by the Pennsylvania minority was soon followed by the Massachusetts Ratifying Convention itself, and then by the ratifying conventions of four other states (South Carolina, New Hampshire, Virginia, and New York).

The amendments proposed by the Pennsylvania minority bear a direct relation to those ultimately adopted as the federal Bill of Rights. Indeed, eight of the first 10 amendments were first suggested as amendments in the proposals of the Pennsylvania minority. These included the following Amendments ultimately adopted: the First (freedom of conscience, speech, and press—Pennsylvania’s proposed amendments 1 and 6); Second (Pennsylvania’s proposed amendment 7); Fourth (Pennsylvania’s proposed amendment 5); Fifth (privilege against self-incrimination and right not to be deprived of life, liberty, or property “except by the law of the land or the judgment of his peers”—Pennsylvania’s proposed amendment 3); Sixth (right to speedy and public jury trial, to accusation and confrontation, and counsel—Pennsylvania’s proposed amendment 3); Seventh (Pennsylvania’s proposed amendment 2); Eighth (Pennsylvania’s proposed amendment 4); and Tenth (Pennsylvania’s proposed amendment 15).

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demand the cause and nature of his accusation, as well in the federal courts as in those of the several States; to be heard by himself and his counsel; to be confronted with the accusers and witnesses; to call for evidence in his favor, and a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; and, that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

4. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

5. That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places; or to seize any person or persons, his or their property not particularly described, are grievous and oppressive, and shall not be granted either by the magistrates of the federal government or others.

6. That the people have a right to the freedom of speech, of writing and publishing their sentiments; therefore the freedom of the press shall not be restrained by any law of the United States.

7. That the people have a right to bear arms for the defence of themselves and their own State or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them unless for crimes committed, or real danger of public injury from individuals; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; and that the military shall be kept under strict subordination to, and be governed by the civil powers.

8. The inhabitants of the several States shall have liberty to fowl and hunt in seasonable time on the lands they hold, and on all other lands in the United States not inclosed, and in like manner to fish in all navigable waters, and others not private property, without being restrained therein by any laws to be passed by the legislature of the United States.

9. That no law shall be passed to restrain the legislatures of the several States from enacting laws for imposing taxes, except imposts and duties on goods imported or exported, and that no taxes, except imposts and duties upon goods imported and exported, and postage on letters, shall be levied by the authority of Congress.

10. That the house of representatives be properly increased in number; that elections shall remain free; that the several States shall have power to regulate the elections for senators and representatives, without being controlled either directly or indirectly by any interference on the part of the Congress; and that the elections of representatives be annual.

11. That the power of organizing, arming and disciplining the militia (the manner of disciplining the militia to be prescribed by Congress), remain with the individual States, and that Congress shall not have authority to call or march any of the militia out of their own State, without the consent of such State, and for such length of time only as such State shall agree.

That the sovereignty, freedom and independency of the several States

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ments dissipated much of the opposition, particularly since the motion to consider the Hancock amendments was made by Samuel Adams who was also considered an Antifederalist. Adams and other Antifederalists joined in praising the proposed amendments. As Dr. Jarvis summed it up, "The amendments have a tendency to remove many objections which have been made to it"—i.e., the Constitution.

Some of the Antifederalists objected that the Hancock amendments were far from the Bill of Rights that was necessary. Nor would it be as difficult as the Federalists claimed to draw up a Bill of Rights: "any gentlemen in that Convention could form one in a few hours, as he might take the bill of rights of Massachusetts for a guide." Parsons made the standard answer, "that no power was given to Congress to infringe on any one of the natural rights of the people." Apparently this was not enough for some delegates and Adams then introduced amendments to be added to the Hancock proposals. These would have gone far in the direction of a Bill of Rights, since they included (as the *Convention Journal* for February 6 tells us) guarantees of freedom of the press and conscience, right to bear arms, to petition for redress of grievances, and against unreasonable searches and seizures. We do not have any report of the debate on the Adams motion, only the statement in the *Journal* that "the question being put was determined in the negative." (The report of the debates erroneously states that Adams withdrew his amendments.)

Defeat of Adams' additional amendments marked the real end of the ratification debate. Later on the same day, the Convention voted to ratify the Constitution and, at the same time, to "remove the fears and quiet the apprehensions of many of the good people of this Commonwealth," recommended to Congress the amendments proposed by Hancock. The final vote was surprisingly close (187 to 168), indicating the wisdom of the Federalists in appropriating the amendment issue for themselves.

As the letter from Benjamin Lincoln to Washington points out, after Hancock introduced his proposed amendments, the Antifederalists wanted the ratification to be upon condition that the amendments be adopted. Such a ratification would have been equivalent to none at all, since it would have required a Second Constitutional Convention to make the amendments. At the same time, when Massachusetts and four other states recommended amendments as part of their ratifications, it placed almost irresistible pressure on the first Congress elected under the Constitution to initiate the amending process. The proposed amendments introduced by Hancock thus led directly to the federal Bill of Rights.

The Massachusetts proposed amendments themselves consisted of nine articles. Four of them were included in the 12 amendments approved by Congress in 1789: the first, that all powers not expressly delegated to the Federal Government be reserved to the states (later guaranteed in the Tenth Amendment); the second governing representation in the House (a similar

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nays, whether this Convention will accept of the report of the Committee made on Monday last; and, the question being put, passed in the negative.

It was then voted that 4 o'clock, P.M., be assigned for that purpose.

A motion was made and seconded, that the report of the Committee made on Monday last, be amended, so far as to add the following to the first article therein mentioned, viz.: "And that the said Constitution be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms; or to raise standing armies, unless when necessary for the defence of the United States, or of some one or more of them; or to prevent the people from petitioning, in a peaceable and orderly manner, the federal legislature, for a redress of grievances; or to subject the people to unreasonable searches and seizures of their persons, papers or possessions." And the question being put, was determined in the negative.

Adjourned to 3 o'clock, P.M.

Met according to adjournment.

The Convention proceeded to the consideration of the report of the Committee on the subject of the propositions of his Excellency the President, of the 31st ultimo, made on Monday last, and the question, whether this Convention will accept of the said report, being put, was determined by yeas and nays, as follows, viz.:

[Yeas, 187—Nays, 168—for the actual vote, see *infra* p. 714].

Massachusetts Convention Debates, 1788*

[Wednesday, January 23]

Col. Varnum, in answer to an inquiry, why a bill of rights was not annexed to this Constitution, said, that, by the constitution of Massachusetts, the legislature have a right to make all laws not repugnant to the Constitution. Now, said he, if there is such a clause in the Constitution under consideration, then there would be a necessity for a bill of rights. In the section under debate, Congress have an expressed power to levy taxes, &c., and to pass laws to carry their requisitions into execution: this, he said, was express, and required no bill of rights. After stating the difference between delegated power and the grant of all power, except in certain cases, the colonel proceeded to controvert the idea that this Constitution went to a consolidation of the Union. He said it was only a consolidation of strength, and that it was apparent Congress had no right to alter the internal relations

**The Debates in the Several State Conventions on the Adoption of the Constitution*, Vol. 2, pp. 78–183.

NEW HAMPSHIRE RATIFYING CONVENTION, 1788

Commentary

New Hampshire ratified the Constitution on June 21, 1788, the ninth state to ratify—thus bringing the new Constitution into effect according to its terms. The Antifederalists had at first appeared so strong in New Hampshire's Convention that the supporters of the Constitution had had to secure a temporary adjournment to ward off defeat. When the Convention met again in June, the Antifederalist sentiment was weaker. A committee was appointed to draft recommendatory amendments. Despite the strong opposition of men like Joshua Atherton (the extract from his speech that follows, based upon his hostility to the slave trade, is the only fragment we have from the New Hampshire debates), the amendments were approved. The effort of the Antifederalists to make ratification conditional until the amendments went into effect was defeated. Ratification was then voted by an 11-man majority.

The New Hampshire Ratifying Convention recommended 12 proposed amendments. The first nine were taken almost verbatim from those proposed by Massachusetts. The last three were added by the New Hampshire drafting committee: 10) no standing army without a three-fourths vote and a ban on troop quartering (the latter the first official state recommendation of what became the Third Amendment); 11) "Congress shall make no laws touching Religion, or to infringe the rights of Conscience" (the first official state recommendation of the freedom of conscience guaranteed by the First Amendment and, most important, the first use of the actual prohibitory language with which the First Amendment starts—a vast improvement, from a legal point of view, in the language of the freedom of religion guarantee); 12) right to bear arms (the first official state recommendation to protect the right guaranteed by the Second Amendment).

New Hampshire Ratifying Convention, 1788*

Page 7, Sec. 9th. "The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

The Hon. Mr. Dow, from Weare, spoke very sensibly and feelingly against this paragraph.

Several members, on the other side, spoke in favor of it, with remarks on what Mr. Dow had said; after which, the Hon. Joshua Atherton, from Amherst, spoke as follows:

**The Debates in the Several State Conventions on the Adoption of the Constitution, Vol. 2, pp. 203–04.*

Fifthly, That Congress shall erect no Company of Merchants with exclusive advantages of Commerce.

Sixthly, That no Person shall be Tryed for any Crime by which he may incur an Infamous Punishment, or loss of Life, untill he first be indicted by a Grand Jury except in such Cases as may arise in the Government and regulation of the Land & Naval Forces.

Seventhly, All Common Law Cases between Citizens of different States shall be commenced in the Common Law-Courts of the respective States & no appeal shall be allowed to the Federal Court in such Cases unless the sum or value of the thing in Controversy amount to three Thousand Dollars.

Eighthly, In Civil Actions between Citizens of different States every Issue of Fact arising in Actions at Common Law shall be Tryed by Jury, if the Parties, or either of them request it.

Ninthly, Congress shall at no Time consent that any Person holding an Office of Trust or profit under the United States shall accept any Title of Nobility or any other Title or Office from any King, Prince, or Foreign State.

Tenth, That no standing Army shall be Kept up in time of Peace unless with the consent of three fourths of the Members of each branch of Congress, nor shall Soldiers in Time of Peace be quartered upon private Houses without the consent of the Owners.

Eleventh, Congress shall make no Laws touching Religion, or to infringe the rights of Conscience.

Twelfth, Congress shall never disarm any Citizen unless such as are or have been in Actual Rebellion.

And the Convention Do. In the Name & behalf of the People of this State enjoin it upon their Representatives in Congress, at all Times untill the alterations and provisions aforesaid have been Considered agreeably to the fifth Article of the said Constitution to exert all their Influence & use all reasonable & Legal methods to obtain a ratification of the said alterations & Provisions, in such manner as is provided in the said article—And That the United States in Congress Assembled may have due notice of the assent & Ratification of the said Constitution by this Convention.—It is resolved that the Assent & Ratification aforesaid be engrossed on Parchment, together with the Recommendation & injunction aforesaid & with this Resolution—And that John Sullivan Esquire President of Convention, & John Langdon Esquire President of the State Transmit the same Countersigned by the Secretary of Convention & the Secretary of the State under their hands & Seals to the United States in Congress Assembled.

Jn. Sullivan, Presidt of the Convention

John Langdon, Presidt of State

By order

John Calfe, Secy of Convention

Joseph Pearson, Secy of State

Ch. 7.

W R O N G S.

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reference to parliament; that it may be there adjudged, “whether they be treason, or *other* felony.” All treasons therefore, strictly speaking, are felonies; though all felonies are not treason. And to this also we may add, that all offences, now capital, are in some degree or other felony: and this is likewise the case with some other offences, which are not punished with death; as suicide, where the party is already dead; homicide by chance-medly, or in self-defence; and petit larceny, or pilfering; all which are (strictly speaking) felonies, as they subject the committers of them to forfeitures. So that upon the whole the only adequate definition of felony seems to be that which is before laid down; *viz.* an offence which occasions a total forfeiture of either lands, or goods, or both, at the common law; and to which capital or other punishment may be superadded, according to the degree of guilt.

To explain this matter a little farther: the word *felony*, or *felonia*, is of undoubted feudal original, being frequently to be met with in the books of feuds, &c; but the derivation of it has much puzzled the juridical lexicographers, Prateus, Calvinus, and the rest: some deriving it from the Greek, *φίλος*, an impostor or deceiver; others from the Latin, *fallo*, *fefelli*, to countenance which they would have it called *fallonia*. Sir Edward Coke, as his manner is, has given us a still stranger etymology^b; that it is *crimen animo felleo perpetratum*, with a bitter or gallish inclination. But all of them agree in the description, that it is such a crime as works a forfeiture of all the offender’s lands, or goods. And this gives great probability to sir Henry Spelman’s Teutonic or German derivation of it^c: in which language indeed, as the word is clearly of feudal original, we ought rather to look for it’s signification, than among the Greeks and Romans. *Fe-lon* then, according to him, is derived from two northern words; *fee*, which signifies (we well know) the fief, feud, or beneficiary estate; and *lon*, which signifies price or value. Felony is therefore the same as *pretium feudi*, the confi-

^b 1 Inst. 391.

^c Glossar. tit. *Felon.*

deration

deration for which a man gives up his fief; as we say in common speech, such an act is as much as your life, or estate, is worth. In this sense it will clearly signify the feudal forfeiture, or act by which an estate is forfeited, or escheats, to the lord.

To confirm this we may observe, that it is in this sense, of forfeiture to the lord, that the feudal writers constantly use it. For all those acts, whether of a criminal nature or not, which at this day are generally forfeitures of copyhold estates^d, are stiled *feloniae* in the feudal law: "*scilicet, per quas feudum amittitur*." As, "*si domino deservire noluerit*^e; *si per annum et diem cessaverit* "*in petenda investitura*^f; *si dominum ejuravit, i. e. negavit se a* "*domino feudum habere*^h; *si a domino, in jus eum vocante, ter citatus non comparuerit*ⁱ;" all these, with many others, are still causes of forfeiture in our copyhold estates, and were denominated felonies by the feudal constitutions. So likewise injuries of a more substantial or criminal nature were denominated felonies, that is, forfeitures: as assaulting or beating the lord^k; vitiating his wife or daughter, "*si dominum cucurbitaverit, i. e. cum uxore ejus concubuerit*^l;" all these are esteemed felonies, and the latter is expressly so denominated, "*si fecerit feloniam, dominum forte cucurbitando*^m." And as these contempts, or smaller offences, were felonies or acts of forfeiture, of course greater crimes, as murder and robbery, fell under the same denomination. On the other hand, the lord might be guilty of felony, or forfeit his seignory to the vassal, by the same acts as the vassal would have forfeited his feud to the lord. "*Si dominus commisit feloniam, per quam vassallus amitteret feudum si eam commiserit in dominum, feudi proprietatem etiam dominus perdere debet*ⁿ." One instance given of this sort of felony in the lord is beating the servant of his vassal, so as that he loses his service; which seems merely in the nature of a civil

^d See Vol. II. pag. 284.

^e Feud. l. 2. t. 26. in calc.

^f Feud. l. 1. t. 21.

^g Feud. l. 2. t. 24.

^h Feud. l. 2. t. 34. l. 2. t. 26. §. 3.

ⁱ Feud. l. 2. t. 22.

^k Feud. l. 2. t. 24. §. 2.

^l Feud. l. 1. t. 5.

^m Feud. l. 2. t. 38. Britton, l. 1. c. 22.

ⁿ Feud. l. 2. t. 26 & 47.

injury,

injury, so far as it respects the vassal. And all these felonies were to be determined "*per laudamentum sive judicium parium suorum*" in the lord's court; as with us forfeitures of copyhold lands are presentable by the homage in the court-baron.

FELONY, and the act of forfeiture to the lord, being thus synonymous terms in the feudal law, we may easily trace the reason why, upon the introduction of that law into England, those crimes which induced such forfeiture or escheat of lands (and, by a small deflexion from the original sense, such as induced the forfeiture of goods also) were denominated felonies. Thus it was said, that suicide, robbery, and rape, were felonies; that is, the consequence of such crimes was forfeiture; till by long use we began to signify by the term of felony the actual crime committed, and not the penal consequence. And upon this system only can we account for the cause, why treason in antient times was held to be a species of felony: *viz.* because it induced a forfeiture.

HENCE it follows, that capital punishment does by no means enter into the true idea and definition of felony. Felony may be without inflicting capital punishment, as in the cases instanced of self-murder, excusable homicide, and petit larceny: and it is possible that capital punishments may be inflicted, and yet the offence be no felony; as in the case of heresy by the common law, which, though capital, never worked any forfeiture of lands or goods^o, an inseparable incident to felony. And of the same nature is the punishment of standing mute, without pleading to an indictment; which is capital, but without any forfeiture, and therefore such standing mute is no felony. In short the true criterion of felony is forfeiture; for, as sir Edward Coke justly observes^p, in all felonies which are punishable with death, the offender loses all his lands in fee-simple, and also his goods and chattels; in such as are not so punishable, his goods and chattels only.

^o 3 Inst. 42.

^p 1 Inst. 391.

THE idea of felony is indeed so generally connected with that of capital punishment, that we find it hard to separate them; and to this usage the interpretations of the law do now conform. And therefore if a statute makes any new offence felony, the law^a implies that it shall be punished with death, *viz.* by hanging, as well as with forfeiture: unless the offender prays the benefit of clergy; which all felons are entitled once to have, unless the same is expressly taken away by statute. And, in compliance herewith, I shall for the future consider it also in the same light, as a generical term, including all capital crimes below treason; having premised thus much concerning the true nature and original meaning of felony, in order to account for the reason of those instances I have mentioned, of felonies that are not capital, and capital offences that are not felonies: which seem at first view repugnant to the general idea which we now entertain of felony, as a crime to be punished by death; whereas properly it is a crime to be punished by forfeiture, and to which death may, or may not be, though it generally is, superadded.

I PROCEED now to consider such felonies, as are more immediately injurious to the king's prerogative. These are, 1. Offences relating to the coin, not amounting to treason. 2. Offences against the king's council. 3. The offence of serving a foreign prince. 4. The offence of imbezzling the king's armour or stores of war. To which may be added a fifth, 5. Desertion from the king's armies in time of war.

1. OFFENCES relating to the *coin*, under which may be ranked some inferior misdemeanors not amounting to felony, are thus declared by a series of statutes, which I shall recite in the order of time. And, first, by statute 27 Edw. I. c. 3. none shall bring pollards and crockards, which were foreign coins of base metal, into the realm, on pain of forfeiture of life and goods. By statute 9 Edw. III. st. 2. no sterling money shall be melted

^a 1 Hawk. P. C. 107. 2 Hawk. P. C. 444.

twelve months' imprisonment at hard labor, and be branded on the forehead with the letter T, and for the second offense shall suffer imprisonment during life.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 117.

CHAPTER X.

AN ACT AGAINST FIRING OF HOUSES, &c.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That whosoever shall be convicted of wilfully firing any man's house, warehouse, outhouse, barn or stable, shall forfeit his or her whole estate to the party suffering, and be imprisoned all their lives in the House of Correction at hard labor to the behoof of the said party suffering. And whosoever shall be convicted of willfully firing any man's stacks or ricks of corn, hay, wood or fence, or any man's vessel, boat or canoe, shall make fourfold satisfaction and suffer a year's imprisonment as aforesaid, to the use and behoof of the party suffering; and if the party offending be unable to make such satisfaction, then he or she shall be sold to the behoof of the party suffering.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 125.

CHAPTER XI.

AN ACT AGAINST FORCIBLE ENTRY.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province

CHAPTER CXX.

AN ACT AGAINST RAPE OR RAVISHMENT.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That whosoever shall be convicted of having committed a rape upon any maid or woman within this province, shall receive on his bare back, well laid on, at the common whipping-post, thirty-one lashes, and shall be imprisoned seven years at hard labor. And in case such person so convict be single and unmarried, he shall forfeit all his estate; and if married, one-third part thereof, one-half of such forfeiture to the proprietary and governor for the support of government and the necessary charges thereof, and the other half to the use of the poor of the place where the said offense is committed. And for the second offense he shall be branded on the forehead with the letter R, and shall suffer imprisonment during life at hard labor.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed May 31, 1718, Chapter 236, and the note thereto.

CHAPTER CXXI.

AN ACT AGAINST INCEST.

For the preventing of incestuous marriages within this province:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of

JOHN HART, Esq. GOVERNOR.**79**

II. BE IT THEREFORE ENACTED, *by the King's most excellent majesty, by and with the advice and consent of his majesty's Governor, Council and Assembly of this province, and the authority of the same,* That in case any person whatsoever shall, at any time hereafter, be legally convicted, by confession or otherwise, of wilfully or corruptly embezzling, impairing, razing or altering any will or record within this province, whereby the estate of inheritance or freehold of any person whatsoever shall be defeated, injured, or any ways altered, such person so convicted shall forfeit all his goods and chattels, lands and tenements, the one half to our Sovereign Lord the King, his heirs and successors, for the support of government, the other half to the party grieved, and shall also be set in the pillory for the space of two hours, and have both his ears nailed thereto, and cut from off his head.

**April,
1715.**

Penalty for
embezzling
wills, &c.

CHAP. XV.

An ACT for the appointment of constables, and what relates to their office, and ascertaining what persons are taxables.

Supplementary acts, 1719, ch. 12, and 1752, ch. 7.

BE IT ENACTED, *by the King's most excellent majesty, by and with the advice and consent of his majesty's Governor, Council and Assembly of this province, and the authority of the same,* That the justices of peace in every respective county of this province, at the first county court held after Michaelmas, shall (a) appoint constables in each hundred of their several and respective counties; and the said constables, so appointed shall, before they enter into that office, take the several oaths appointed to be taken by all officers by the acts of assembly of this province, and the oath of a constable, in form following; that is to say, "You, A. B. shall well and truly serve our
" Sovereign Lord the King in the office of a constable; you
" shall see and cause that his majesty's peace be well and duly
" kept, according to your power; you shall arrest all such
" persons as in your presence shall commit any riot, fray, or
" other breach of his majesty's peace; you shall do your best
" endeavour, upon complaint to you made, to seize all felons,
" barretors, rioters, or persons riotously assembled, and if any
" such offender shall make any resistance with force, you shall
" levy hue and cry, and cause them to be pursued so as they
" may be taken; you shall do your best endeavour that hue
" and cry be duly raised and pursued against murderers,

Constables
to be ap-
pointed by
justices and
sworn

(a) By the act of 1752, ch. 7. section 2. the county clerk shall signify such appointment, within five days, to the sheriff, and the sheriff to the person appointed, within ten days, on penalty of twenty shillings currency.

Counterfeiting Bills of Credit.

33

An A C T to prevent the counterfeiting and altering
of any of the Bills of Public Credit emitted, or
that shall be hereafter emitted, by this Colony, or
any of the other Colonies or Provinces under His
Majesty's Dominion in *America*, and against ut-
tering any such Bills, knowing the same to be
counterfeit.

1743.
1753.
1754.
1755.

WHEREAS notwithstanding all the Laws which have been
heretofore made by this Colony to prevent the counterfeiting and
altering Bills of Public Credit, and against uttering the same, know-
ing them to be counterfeit or altered, it often happens that the
same are counterfeited, altered, and knowingly uttered: And
forasmuch as daring and abandoned Villains have not hitherto been
sufficiently deterred from counterfeiting such Bills, but have continued
in such wicked Practice, and greatly imposed upon and cheated many
honest People thereby, which makes it necessary, for the Good of Society,
that some more severe, and exemplary Punishment should be inflicted
on those who are the first Agents and Instruments in so growing an
Evil:

Preamble.

THEREFORE, Be it Enacted by the General Assembly, and by the
Authority of the same it is Enacted, That if any Person shall here-
after make and engrave any Plate, or any other Implement or
Device, for the making or impressing of any Bill in the Likeness
and in Imitation of any of the Bills of Public Credit issued, or that
shall be hereafter issued, by this, or any other of the Colonies or
Provinces under His Majesty's Dominion in *America*; or shall
impress any Bill from such Plate, Implement or Device; or if any
Person shall forge and counterfeit the Name and Hand-Writing
of any, who have by lawful Authority signed, or shall hereafter by
lawful Authority sign true Bills, on any counterfeit and false Bills,
every Person so offending, and being thereof lawfully convicted,
shall be adjudged guilty of Felony, without the Benefit of the
Clergy, and shall suffer the Pains of Death.

Persons mak-
ing any Plate
or Device for
counterfeiting
Bills of Public
Credit, or im-
pressing or
signing any
such Bills, to
be guilty of
Felony.

AND be it further Enacted by the Authority aforesaid, That
whoever shall, at any Time or Times hereafter, utter and pass
any Bill or Bills, knowing the same to be false and counterfeit, of
the Tenor, or made in the Imitation of any of the Bills of Public
Credit emitted, or that shall be hereafter emitted, by this, or any
other of the Colonies or Provinces under His Majesty's Dominion
in *America*, by Law established therein, or that shall alter or in-
crease any Figure or Sum in any Bill or Bills of Credit emitted, or
that

Persons guilty
of uttering
Counterfeit
Bills, or of al-
tering true
Bills, to be pil-
loried, crop-
ped, branded,
imprisoned,
and pay dou-
ble Damages.

that shall be hereafter emitted, by this, or any other Colony or Province as aforesaid, or by any Ways or Means procure or encourage the same to be done, or that shall utter and pass any Bill so altered, knowing the same to be altered, the Person so offending therein shall be pilloried, and have both his Ears cropped, and be branded with the Letter R. on each Cheek, and be imprisoned at the Discretion of the Justices or Judges of the Court of Assize and General Gaol Delivery, (before whom such Offences shall be tried) and shall pay double Damages to all Persons defrauded and cheated by such false Bill or Bills, together with all Cost of Prosecution: In which Damages shall be allowed double Interest, during the Time of possessing such Bill or Bills, to be proved by the Oath or Engagement of the Possessor, which Oath or Engagement shall be administered by the General Treasurer, with whom all such Money (awarded for Satisfaction) shall be lodged for making good such Damages.

Their Estate to be forfeited for the Use of the Colony, to be sold by the General Treasurer.

AND be it further Enacted by the Authority aforesaid, That every such convicted Person shall forfeit the remaining Part of his Estate (if any he hath) both real and personal, to and for the Use of the Colony; and that all such real Estate, as shall be forfeited as aforesaid, shall be sold by the said General Treasurer, at public Vendue, within Two Months after public Notice thereof given by the said General Treasurer; and all such Monies, after lawful Fees are deducted, shall be for the Use of the Colony: And all Deeds made of such real Estate of any such convicted Person by the General Treasurer, shall transfer and vest in the Purchaser or Purchasers all the Estate, Right, Title, and Interest, which such Convict had therein at the Time of forfeiting the same.

Deeds, &c. of Lands or Goods, made by such accused Persons after their Apprehension, to be void.

AND be it further Enacted by the Authority aforesaid, That all Deeds or other Instruments of Conveyance of any Lands, Tenements, or personal Estate, made by any such convicted Person, after the Time of his being apprehended for any of the aforesaid Crimes, shall be void and of none Effect; and the same Lands, Tenements, or personal Estate shall be forfeited to and for the Use of the Colony, to be disposed of as aforesaid.

On Conviction the General Treasurer to attach the whole Estate of such Convict,

AND be it further Enacted by the Authority aforesaid, That when and so often as any Person shall be convicted as aforesaid, that then immediately the General Treasurer, in Behalf of the Colony, shall attach such Person's real and personal Estate, that may or can be found, either in his own Possession, or in the Possession or Custody of any other Person whatsoever, in order to be disposed as aforesaid. *AND*

And whereas there are sometimes contingent and unforeseen charges that demand prompt payment,—

Be it further enacted,

£100 for contin-
gent charges.

[SECT. 16.] That the sum of one hundred pounds, being the remaining part of the aforesaid sum of seven thousand eight hundred and sixty pounds, be applied to pay such contingent charges, and for no other purpose whatsoever.

Provided always,—

Remainder to
be and remain
as a stock in the
treasury.

[SECT. 17.] That the remainder of the sum which shall be brought into the treasury by the tax aforesaid, over and above what shall be sufficient to pay off the benefit tickets as aforesaid, shall be and remain as a stock in the treasury, to be applied as the general court of this province shall hereafter order, and to no other purpose whatsoever; any thing in this act to the contrary notwithstanding.

And be it further enacted,

Money to be
paid out of the
proper appro-
priations.

[SECT. 18.] That the treasurer is hereby directed and ordered to pay the sum of eight thousand and ten pounds, as aforesaid, out of such appropriations as shall be directed to by warrant, and no other, upon pain of refunding all such sum or sums as he shall otherwise pay; and the secretary to whom it belongs to keep the muster-rolls and accompts of charge, shall lay before the house of representatives, when they direct, such muster-rolls and accompts after payment thereof.

And be it further enacted,

Directors' al-
lowance to be
made by the
general court.

[SECT. 19.] That the directors or managers by this act appointed, shall have such allowances for their services as the general court shall hereafter order, and in case of the death, refusal or incapacity of attendance of any one or more of said managers, the vacancy shall be fill'd up by the governor and council. [*Passed February 8; published February 16, 1750–51.*]

CHAPTER 16.

AN ACT FOR GRANTING THE SUM OF THREE HUNDRED POUNDS, FOR THE SUPPORT OF HIS HONOUR THE LIEUTENANT-GOVERNOUR AND COMMANDER-IN-CHIEF.

Be it enacted by the Lieutenant-Governour, Council and House of Representatives,

Governor's
grant.

That the sum of three hundred pounds be and hereby is granted unto his most excellent majesty, to be paid out of the publick treasury to his honour Spencer Phips, Esq^[1]., lieutenant-governour and commander-in-chief in and over his majesty's province of the Massachusetts Bay, for his past services, and further to enable him to manage the publick affairs of the province. [*Passed February 15; * published February 16, 1750–51.*]

CHAPTER 17.

AN ACT FOR PREVENTING AND SUPPRESSING OF RIOTS, ROUTS AND UNLAWFUL ASSEMBLIES.

Preamble.

WHEREAS the provision already made by law has been found insufficient to prevent routs, riots and tumultuous assemblies, and the evil consequences thereof; wherefore,—

* See the note to this chapter, *post*.

[3D SESS.]

PROVINCE LAWS.—1750–51.

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Be it enacted by the Lieutenant-Governour, Council and House of Representatives,

[SECT. 1.] That from and after the publication of this act, if any persons, to the number of twelve or more, being arm'd with clubs or other weapons, or if any number of persons, consisting of fifty or upwards, whether armed or not, shall be unlawfully, riotously or tumultuously assembled, any justice of the peace, field officer or captain of the militia, sheriff of the county or undersheriff, or any constable of the town, shall, among the rioters, or as near to them as he can safely come, command silence while proclamation is making, and shall openly make proclamation in these or the like words:—

Officers to make proclamation when persons are riotously assembled.

Our sovereign lord the king chargeth and commandeth all persons being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business; upon the pains contained in the act of this province made in the twenty-fourth year of his majesty King George the Second, for preventing and suppressing of riots, routs and unlawful assemblies. God save the king.

Form of the proclamation.

And if such persons so unlawfully assembled, shall, after proclamation made, not disperse themselves within one hour, it shall be lawful for every such officer or officers, and for such other persons as he or they shall command to be assisting, to seize such persons, and carry them before a justice of the peace; and if such person shall be killed or hurt by reason of their resisting the persons so dispersing or seizing them, the said officer or officers and their assistants shall be indemnified and held guiltless.

[SECT. 2.] And all persons who, for the space of one hour after proclamation made as aforesaid,—or to whom proclamation ought to have been made, if the same had not been hindred,—shall unlawfully, riotously, riotously and tumultuously continue together, or shall wilfully let or hinder any such officer, who shall be known, or shall openly declare himself to be such, from making the said proclamation, shall forfeit all their lands and tenements, goods and chattles, to his majesty (or such a part thereof as shall be adjudged by the justices before whom such offence shall be tried), to be applied towards the support of the government of this province; and shall be whipt thirty-nine stripes on the naked back at the publick whipping-post, and suffer one year's imprisonment, and once every three months during said imprisonment receive the same number of stripes on the naked back at the publick whipping-post as aforesaid.

Penalty for disobedience.

[SECT. 3.] And if any such person or persons, so riotously assembled, shall demolish or pull down, or begin to demolish or pull down, any dwelling-house or other house parcel thereof, any house built for publick uses, any barn, mill, malt-house, store-house, shop or ship, he or they shall suffer the same pains and penalties as are before provided in this act.

And be it further enacted,

[SECT. 4.] That this act shall be read at every general sessions of the peace, and at the anniversary meeting of each town, within this province, annually; and no person shall be prosecuted for any offence contrary to this act, unless prosecution be commenced within twelve months after the offence committed.

This act to be read at the anniversary meeting of the towns and general sessions of the peace.

Provided always,—

[SECT. 5.] That where there shall appear any circumstances to mitigate or alleviate any of the offences against this act, in the judgment of the court before which such offence shall be tried, it shall and may be lawful for the judges of such court to abate the whole of the pun-

Judges empowered to abate the punishment of whipping, in case.

ishment of whipping, or such part thereof as they shall judge proper ; anything in this act to the contrary notwithstanding.

Continuance of
the act.

[SECT. 6.] This act to continue and be in force for the space of three years from the publication thereof, and no longer. [*Passed and published February 14, 1750-51.*]

CHAPTER 18.

AN ACT IN ADDITION TO AN ACT, INTITLED "AN ACT TO PREVENT DAMAGE BEING DONE ON THE BEACH, HUMOCKS AND MEADOWS BELONGING TO THE TOWN OF SCITUATE, LYING BETWEEN THE SOUTHERLY END OF THE 'THIRD CLIFT,' SO CALLED, AND THE MOUTH OF THE NORTH RIVER."

Preamble.

1749-50, chap. 14.

WHEREAS in and by an act made and passed in the twenty-third year of his present majesty's reign, intituled "An Act to prevent damage being done on the beach, humocks and meadows belonging to the town of Scituate, lying between the southerly end of the 'Third Clift,' so called, and the mouth of the North River," the penalt[y][ie]s for turning or driving neat cattle, horse-kind, sheep or goats upon such beach, humocks or sedge-ground adjo[y][i]ning to said beach, to feed thereon, are to be recovered from him or them that shall so drive said cattle, horse-kind, sheep or goats, or from the owner or owners of them that shall so order them to be driven ; and it is found, by experience, that proof thereof can seldom be obtained, whereby the good end and design of said act in a great measure is defeated,—

Be it therefore enacted by the Lieutenant-Governour, Council and House of Representatives,

Neat cattle and
other creatures
to be impound-
ed if found feed-
ing on the
meadows, &c.

[SECT. 1.] That if any neat cattle, horse-kind, sheep or goats shall be found feeding on said beach, humocks, meadows or sedge-ground adjoyning to said beach, it shall and may be lawful for any person to impound the same, such person to observe the rules and directions in the said act prescribed in case of impounding ; and the owner or owners of them shall forfeit and pay to the impounder one shilling a head for all neat cattle and horse-kind, and twopence for every sheep or goat ; and the said penalt[y][ie]s or forfeitures shall be paid, before the creatures, which shall or may be impounded by virtue of this act, be discharged or released by the pound-keeper.

Provided, nevertheless,—

Rates to be paid
for such im-
pounded creat-
ures.

[SECT. 2.] The owner or owners of the creatures so impounded may, if they think fit, replevie such creatures, on condition they give sufficient bond, with one or more suret[y][ie]s, to prosecute such replevin to effect before some justice of the peace in the same county, within fifteen days from the date of such replevin, and to pay all such forfeitures and costs as shall be awarded or adjudged against them. [*Passed February 8 ; published February 16, 1750-51.*]

CHAPTER 19.

AN ACT FOR GRANTING UNTO BENJAMIN CRABB THE SOLE PRIVILEGE OF MAKING CANDLES OF COARSE SPERMACEÏ OYL.

Preamble.

WHEREAS Benjamin Crabb, of Rehoboth, in the county of Bristol, has represented to this court that he, and no other person in the prov-

FLOUR AND BREAD.

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48. All and singular the sections, clauses, provisions and penalties, in any wise relating to the inspection of flour and examination of casks, which are contained in the said act, entitled, An act to prevent the exportation of bread and flour not merchantable, and for other purposes, are hereby extended to the port of Chester, and to the regulation of the inspection of flour within said port, in as full and ample a manner as if the same had been herein particularly specified and mentioned.—*ibid.* § 5.

See *Gauge of Barrels*, 9.

F O R G E R Y.

1. **I**F any inhabitant of this colony, shall, after the 5th day of August next, within or without this colony, or any person shall, within this colony, after the said day, forge or counterfeit any of the bills of credit issued by the congress, by the assembly, or convention of any of the united colonies, or of this colony, or alter the sum expressed in any of the said bills of credit, or shall offer, or cause to be offered, in payment, any such counterfeit, &c. bill of credit, knowing the same to be counterfeit, &c. and shall be thereof convicted by a petit jury, after presentment by a grand jury, in a court to be erected in this colony by the next convention, or shall stand mute, or peremptorily challenge above the number of 20 of the pannel, shall suffer death as a felon, without benefit of clergy.—*Resol. 4th July 1776.*

2. If any inhabitant of this state shall, after the first day of December next, within or without this state, or any person shall, within this state, after the said day, forge or counterfeit any of the certificates, bills or notes, of the continental loan office, or alter the sum expressed in any of the said certificates, &c. or shall offer or cause to be offered in payment, any such counterfeit, forged, or altered certificate, &c. knowing the same to be counterfeit, &c. and shall be thereof convicted, &c. he shall suffer death as a felon, without benefit of clergy.—*ibid.* Nov. 11, 1776.

3. If any subject or inhabitant of this state shall, within or without this state, and if any person whatever shall, within this state, forge or counterfeit any of the tickets in the United States lottery, or shall forge, &c. any of the certificates, bills or notes of the continental loan office or alter the sum expressed in any of the said certificates, &c. or shall offer, or cause to be offered, in payment, any such counterfeit, &c. certificate, &c. knowing the same to be counterfeit, &c. and shall be thereof convicted in the general court, or shall stand mute, or peremptorily challenge above 20 of the pannel, such person shall

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F O R G E R Y.

shall suffer death as a felon, without benefit of clergy.—*Feb. 1777, c. 20, § 10.*

4. If any subject or inhabitant of this state shall, within or without this state, and if any person shall, within this state, forge or counterfeit any of the bills of credit issued by congress, or by any assembly, convention, legislature, or other supreme authority of this state, or any other of the United States, or shall alter the sum expressed in any of the said bills of credit, or offer, or cause to be offered in payment, any such counterfeit, &c. bill of credit, knowing the same to be counterfeit, forged or altered, and shall be thereof convicted in the general court of this state, or shall stand mute, or peremptorily challenge above 20 of the pannel, such person shall suffer death as a felon, without benefit of clergy.—*ibid. § 11.*

5. If any subject of this state shall, within or without this state, and if any person whatsoever shall, within this state, forge or counterfeit any certificate issued in virtue of the act, entitled, An act for the payment of the journal of accounts, and for other purposes, or shall alter the sum expressed in any of the said certificates, or shall pass in payment any such counterfeit or altered certificate, knowing the same to be counterfeit, &c. and shall be thereof convicted in the general court of this state, stand mute, or peremptorily challenge above 20 of the pannel, such person shall suffer death as a felon, without benefit of clergy.—*March 1778, c. 17.*

See Bank Notes, 1, 5, 7.—Convicts, 4.—Criminal jurisdiction of Baltimore, 7.—Governor and council, 25.—Inspectors notes, 5.—Tobacco inspected, 8.

F O R N I C A T I O N.

1. **A**NY justice of the peace within this state, as often as he shall be informed of any female person having an illegitimate child, may issue his warrant to the constable of the hundred in which such person resides, who is hereby required to carry such person before some justice of the peace of the county, who shall call on her for security to indemnify the county from any charge that may accrue by means of such child, and, upon neglect or refusal, may commit her to the custody of the sheriff of the county, until she shall give such security; but in case she shall on oath discover the father, the said justice shall discharge her, and call such father, if a resident of the county, before him, and shall cause him to give security in the sum of 30l. current money, to indemnify the county from all charges that may arise for the maintenance of such child; but in case the father be a resident of any other county within this state, then the justice shall transmit, under his hand and seal, a copy of the proceedings in such case had, and the justice to whom such proceedings

CHAP. XI.

[Chan. Rev.
p. 55]

*An act for preventing the forgery of
certain warrants and certificates,
and other purposes.*

Preamble.

Forging and
counterfeit-
ing certain
warrants &
certificates,
how punish-
able.

I. WHEREAS the crime of forgery, at all times pernicious in its nature, but particularly flagitious as committed in some late instances, hath not a punishment sufficiently exemplary annexed thereto: *Be it therefore enacted by the General Assembly,* That if any person, from and after the twenty ninth day of June, in the year of our Lord one thousand seven hundred and seventy seven, shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any warrant or draught of the governour or chief magistrate, or of the president or other member of the privy council acting as lieutenant governour, or of the navy board, directed to the treasurer for the payment of publick money, or any certificate of the commissioners or auditors of publick accounts directed to the treasurer for payment of publick money, or shall present for payment, at the publick treasury, any false, forged, or counterfeited warrant or draught of the governour or chief magistrate, or of the president or other member of the privy council, acting as lieutenant governour, or of the navy board, or any false, forged, or counterfeited certificate of the commissioners or auditors of publick accounts, as aforesaid, knowing the same to be false, forged, or counterfeited, or shall offer to the commissioners or auditors of accounts, for the purpose of obtaining their certificate directed to the treasurer for the payment of publick money, any false, forged, or counterfeited voucher or exhibit, knowing the same to be false, forged, or counterfeited, or shall forge and pass any such voucher or exhibit, then every such person, being thereof convicted according to the due course of law, shall be deemed and holden guilty of felony, shall forfeit his whole estate, real and personal, shall receive on his bare back, at the publick whipping post, thirty nine lashes, and shall serve on board some armed vessel in the service of this commonwealth, without wages, for a term

MAY 1777—1st of COMMONWEALTH.

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not exceeding seven years, provided that the governour and council may make out of the offender's estate such an allowance as they shall think necessary for the maintenance of his wife and children. Provision for wife and children out of estate of offender.

II. And whereas it hath been doubted whether it is felony to steal continental bills of credit, treasury notes of this commonwealth, or paper money of any of the other United States:

III. *Be it therefore enacted by the authority aforesaid,* That if any person, from and after the said twenty ninth day of June, shall steal, or take by robbery, any continental bill of credit, any treasury note of this commonwealth, or any sum of the paper money of any other of the United States, such offender shall be deemed guilty of felony, and shall be obliged to restore four times the value of the money so stolen, and in default thereof shall be sold as a servant for such a term, not exceeding seven years, as shall raise the same, and shall farther receive such other punishment, not extending to life or member, as the court before whom the offender shall be convicted shall think adequate to his offence. Stealing or taking by robbery, paper money, felony.

IV. *Provided always, and it is hereby enacted by the authority aforesaid,* That no attainder for any offence hereby made felony shall work any corruption of blood, or disheirison of heirs. Attainder of, no corruption of blood

CHAP. XII.

An act for the encouragement of Iron Works. [Chan. Rev. p. 55.]

I. WHEREAS the discovery and manufacturing of iron ore, requisite for the fabricating the various implements of husbandry, small arms, trenching tools, anchors, and other things necessary for the army and navy, is at this time essential to the welfare and existence of this state, as the usual supplies of pig and bar iron from foreign states is rendered difficult and uncertain, and James Hunter, near Fredericksburg, hath erected, and is now carrying on, at considerable expense and Preamble, reciting Hunters extensive works, near Fredericksburg.

chaser or purchasers shall and may hold and enjoy the same lands for such estate as was conveyed to the said loan officers by the mortgage executed by such mortgagor clearly discharged and freed from all benefit and equity of redemption and all other incumbrances made and suffered after the execution of such mortgage, by the mortgagor, his or her heirs or assigns and such purchaser or purchasers shall pay the loan officers for drawing and executing such conveyance the sum of five shillings.

Disposition
of proceeds
of sale.

XXII. *And be it further enacted by the authority aforesaid,* That the money for which the premises are sold, shall upon the sale thereof be paid to the said loan officers, out of which they shall retain in their hands, the amount of the principal then due together with the interest which would have been due thereon on the third Tuesday of June next thereafter if such sale had not been made, as also the expence of the advertizements, and of the sale, such expence not exceeding fifteen shillings and the remainder (if any be) the loan officers shall pay to the mortgagor, his, or her heirs or assigns. *Provided always,* that if any person or persons offer at the time of the sale to borrow (on sufficient security within this act) the whole principal that is to be retained out of the price, and lent out again, then and in that case the loan officers, shall not retain interest beyond the day of sale. *Provided also* that if the purchaser incline to borrow the principal sum or sums, that is, or are to be paid by him, and lent out again, and if the loan officers be satisfied with the security to be given by such purchaser in manner aforesaid, such purchaser shall be preferred to any other borrower. *Provided likewise* that the loan officers shall not be obliged to take notice of any assigns of the mortgagor unless they enter a notice of their right with the said loan officers at or before the time of sale; which notice the loan officers shall enter on the mortgage and minute thereof on demand, the assignee paying one shilling for the same; and assignees shall be preferred according to the priority of their entries of such notices.

Proceed-
ings where
title of
borrower
falls.

XXIII. *And be it further enacted by the authority aforesaid* That after any lands houses tenements or hereditaments, are mortgaged according to the directions of this act, if it shall appear to the loan officers, upon good and sufficient grounds (which they shall insert in the minute book of their proceedings) that the mortgagor had no good right or title to the premises mortgaged, or has otherwise broken the covenant of his mortgage so that the public may be in danger of loosing the monies, or any part thereof advanced in loan upon the credit of the premises, it shall and may be lawful to and for the said loan officers, and they are hereby empowered, and required to commence an action or actions of debt or covenant, upon the said mortgage against the said mortgagor, his or her heirs executors or administrators and the same to prosecute to judgment by all lawful ways and means whatsoever in any court of record for the recovery of the whole monies lent upon the mortgages and the interest become due and that shall become due until the third Tuesday of June next following the judgment, with costs and charges in which action or actions the mortgagor shall be held to special bail and the court in which such action is brought, is, and the judges thereof in vacation are hereby authorized and directed to give such short day for the rules of pleading thereon, that judgment or a trial and final determination may be had the first court after the court at which the defendant first appeared to the same action.

Counter-
feiting bills
of credit
a felony.

XXIV. *And be it further enacted by the authority aforesaid,* That if any person or persons whatsoever shall presume to counterfeit any of the bills of credit to be issued by virtue of this act, or shall alter any of

the said bills issued as aforesaid, so that they shall appear to be of greater value than by this act the same bill or bills so altered, were enacted signed or numbered to pass for, or shall knowingly pass or give in payment any of the bills aforesaid so counterfeited or altered, every person guilty of counterfeiting or altering any of the said bills as aforesaid, or of knowingly passing or giving in payment any such counterfeit or altered bill or bills, shall be guilty of felony, and being thereof convicted, shall forfeit all his or her estate both real and personal to the people of this State, and be committed to the bridewell of the city of New York for life, and there confined to hard labor, under the direction of the corporation of the said city, at the expence (if any should arise) of this State, and to prevent escape shall be branded on the left cheek with the letter C, with a red hot iron and though such counterfeiting, altering or knowingly passing counterfeit or altered bills, shall be done out of this State, yet any grand jury within this State, is hereby empowered to present the same and to set forth in the indictment, the place where, by their evidence it appeared that the fact was committed, which indictment is hereby declared good, notwithstanding that the place alledged be out of this State; and the petit jurors on the trial of all such foreign issues, shall be returned from the body of the county where the said supreme court shall be statedly held, any law usage or custom to the contrary notwithstanding.

XXV. *And be it enacted by the authority aforesaid,* That the respective loan offices in this State shall be kept at the court house of each respective county, or at some other convenient place near the same except that the loan officers for the county of Orange shall meet alternately at Goshen, and at the new city in the said county, and their first meeting to be at the court house in Goshen; and the said loan officers shall so soon as the said bills are signed and delivered to them, set up advertizements, of the first day of their attending the loan office, for the purposes herein before mentioned, and shall duly attend the same on that first day, and on every Tuesday and Wednesday in each week for the space of four weeks thereafter, if their be occasion of their sitting so long, and the said treasurer so soon as he can fix the day upon which he can deliver the said bills to the loan officers shall send notice by letter to them to come and receive the bills at that day.

Office of loan officer to be kept at court-house.

XXVI. *And be it further enacted by the authority aforesaid* That the loan officers respectively shall retain in their hands so much of the interest monies paid into them as will pay them their respective salaries appointed by this act, any thing in this act to the contrary notwithstanding, and the remainder of the said interest monies shall be annually paid to the treasurer of this State on or before the last Tuesday of the month of August and the said treasurers receipt shall be to the said loan officers and every of them their heirs executors and administrators a sufficient discharge.

Loan officers to retain salaries out of interest.

XXVII. *And be it further enacted by the authority aforesaid* That the yearly salary of the loan officers aforesaid for the services required of them by this act shall be as follows to wit

Salaries of loan officers.

For every of the loan officers of the county of New York forty pounds
 For every of the loan officers of the county of Albany thirty pounds
 For every of the loan officers of Kings county ten pounds
 For every of the loan officers of Queens county sixteen pounds
 For every of the loan officers of Suffolk county fifteen pounds
 For every of the loan officers of Richmond county ten pounds
 For every of the loan officers of West Chester county fifteen pounds
 For every of the loan officers of Dutchess county twenty pounds

Landlord may join himself with tenant as defendant.

And be it further enacted by the authority aforesaid, That it shall be lawful for the court, where such ejectment shall be brought, to suffer the landlord or landlords to make him, her, or themselves defendant or defendants, by joining with the tenant or tenants, to whom such declaration in ejectment shall be delivered, in case he or they shall appear; but in case such tenant or tenants shall refuse or neglect to appear, judgment shall be signed against the casual ejector for want of such appearance. But if the landlord or landlords of any part of the lands, tenements or hereditaments, for which such ejectment was brought, shall desire to appear by himself, herself or themselves, and consent to enter into the like rule, that by the course of the court the tenant in possession, in case he or she had appeared, ought to have done; then the court where such ejectment shall be brought, shall and may permit such landlord or landlords so to do, and order a stay of execution upon such judgment against the casual ejector, until they shall make further order therein.

And to obviate some difficulties that many times occur in the recovery of rents, where the demises are not by deed;

Action on the case for lands held and occupied.

Be it further enacted by the authority aforesaid, That it shall be lawful to and for the landlord or landlords, his, her or their heirs or assigns, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements or hereditaments held or occupied by the defendant or defendants, in an action on the case, for the use and occupation of what was so held and enjoyed; and if in evidence on the trial of such action any parole demise, or any agreement (not being by deed) whereon a certain rent was reserved, shall appear, the plaintiff in such action shall not therefore be non-suited, but may make use thereof as an evidence of the quantum of the damages to be recovered.

CHAP. 37.

AN ACT for punishing treasons and felonies, and for the better regulating the proceedings in case of felony.

PASSED the 21st of February, 1788.

Benefit of clergy abolished.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the privilege or benefit of the clergy heretofore allowed in criminal cases, shall be and hereby is taken away and for ever abolished.

Crimes whereof the punishment is death.

And be it further enacted by the authority aforesaid, That every person who hereafter shall be in due form of law convicted or attainted of any manner of treason, murder, rape, buggery burglary; or of feloniously taking any goods or chattles out of any church or place of public worship; or of feloniously breaking any house, by day or by night, any person being then in the same house where such breaking shall be committed and thereby put in fear or dread; or of robbing any person or persons in his, her, or their dwelling house or dwelling place, the owner or dweller in the same house or his wife or his or her children or servants or any or either of them then being within the same house or place, where the robbery shall be committed and done, or any other place within the precinct of the same house or dwelling place, whether the owner or dweller in the same house, or his wife, or his or her children or servants, or any or either of them then and there being shall

be waking or sleeping; or of robbing any person, or of feloniously taking away any goods or chattels being in any dwelling house, the owner or any other person being therein and put in fear; or of robbing any dwelling house, in the day time, any person being therein, or of robbing any person or persons in or about any highway; or of willfully burning any dwelling house, or any barn; or of any offence specified, in the act entitled an act to prevent malicious maiming and wounding; or of any offence specified in the act entitled an act for preventing and forging punishing and counterfeiting; and every person who shall aid, abet, assist, counsel, hire or command, any person or persons to commit any of the said offences, and thereof be duly convicted or attainted, shall suffer death for the same, and shall be hanged by the neck until he, she or they shall be dead. *And further*, that the judgments to be given in all and every of the cases aforesaid shall invariably be that the person so convicted or attainted shall be hanged by the neck, until he or she shall be dead; any law, usage or custom to the contrary notwithstanding. *And moreover*, that all and every person and persons who shall in due form of law be convicted or attainted of any felony, other than such as are herein before mentioned, shall, for the first offence, be punished by fine, imprisonment, or corporal punishment, or by all or any of them, in such manner as the justices before whom such conviction or attainder shall be had, or who shall give judgment thereupon shall in their discretion think proper to direct and award, not extending to life or limb; and for any second offence or felony committed after such first conviction, every such offender shall suffer death, and shall have judgment to be hanged by the neck, until he or she shall be dead; and shall be accordingly hanged by the neck, until he or she shall be dead; but nothing herein before contained shall extend to petty larceny, which is the feloniously taking and carrying away the goods or chattels of another of the value of five pounds or under.

III. *And be it further enacted by the authority aforesaid*, That the law relative to the *piene fort et dure* shall be and hereby is abolished; and that in all cases of treason or felony, where the party indicted shall, on being arraigned obstinately stand mute, or refuse to plead and be tried in due course of law, such obstinately standing mute or refusal to plead and be tried as aforesaid, shall be adjudged to amount to and be a proper traverse or denial of the facts charged in the indictment; and the trial shall thereupon proceed in like manner, and the record shall be in the same form, and the same judgment shall be given against the said party, if found guilty, as if he or she had on being arraigned pleaded not guilty, and for trial had put himself or herself on the country; any law to the contrary notwithstanding.

And be it further enacted by the authority aforesaid, That the clerk of the supreme court, the clerks of every circuit court, and court of oyer and terminer and goal delivery, and the clerks of the peace for the time being, where any attainder, outlawry or conviction, of any person or persons for any manner of treason, murder, rape, buggery, burglary, robbery or other felony shall be had, shall, without fee or reward, certify into the court of exchequer at the next term, there to remain of record for ever, a transcript briefly and in few words containing the tenor and effect of every such attainder, outlawry or conviction, and of the indictment or appeal upon which the same shall be so had; that is to say, the name, surname and addition of every such person so convicted, outlawed or attainted, and the certainty of the said felony or other offence whereupon he or she shall be so convicted, outlawed or attainted, and the day and place of the conviction, outlawry or attainder, and before whom

Where party indicted stands mute, same proceedings as in plea of not guilty

Clerks to file in court of exchequer record of attainder and outlawries.

the same was had, and the day and place where and when the said felony or other offence was done, and the judgment thereupon given, upon pain to forfeit, for every omission, or neglect, the sum of ten pounds to the people of this State. And the clerk of the court of exchequer shall receive all such certificates, and transcripts when the same shall be presented and offered to him by any of the respective clerks aforesaid, or by his or their deputy or deputies, without taking any thing for the same; and shall at all times, without fee or reward, when requested by the attorney general of this State, or by any prosecutor against any person named in any such certificate or transcript, for any second offence, make and deliver to the attorney general or prosecutor, a true copy of such certificate or transcript certified under his hand and the exchequer seal; and every such copy so certified shall be good evidence of such former conviction, outlawry or attainder.

Trial for stealing in one county where proof shows robbery in another county.

And be it further enacted by the authority aforesaid, That if any person or persons shall be indicted of felony, for stealing of any goods or chattels in any county of this State, and thereof be convicted or attainted, if it shall appear upon evidence and be found by the jury, that the said goods or chattels were taken by robbery or burglary, or in any other manner in any other county, whereof if such person or persons had been convicted by a jury of such other county, he, she or they would by virtue of this or any other act now in force, or hereafter to be made, be liable to suffer death, then and in every such case, judgment shall be given that the said offender or offenders shall be hanged by the neck, until he, she or they shall be dead; and such offender and offenders shall be put to death accordingly.

Death sentence to work for forfeiture of estate.

And be it further enacted by the authority aforesaid, That every person who shall in due form of law be convicted or attainted of any manner of treason, murder, rape, buggery, burglary, robbery or other felony, for which he or she ought, or is or shall be by any law of this State now in force, or hereafter to be made, liable to suffer death, shall forfeit to the people of this State, all his, or her goods and chattels, and also all such lands, tenements, and hereditaments, which any such offender shall have of any estate of inheritance, in his or her own right, in use or possession, and all rights, entries, conditions, reversions and remainders, of, in or to, any lands, tenements, or hereditaments, at the time of any such offence committed, or at any time after. And the people of this State, without any office or inquisition to be found, shall be deemed and adjudged in the actual and real possession of the lands, tenements hereditaments, uses, goods, chattels and all other things, of the offenders so convicted, or attainted which the people of this State ought lawfully to have, and which the offenders so being convicted or attainted ought to lose and forfeit, or might lawfully lose and forfeit; saving to every person and persons, and to his, her and their heirs and successors, other than the offenders and their heirs, and such person and persons as claim to the use of any such offender or offenders, all such rights, titles, interest, possessions, leases, rents, reversions, offices and other profits, which they or any of them shall have at the day of committing any such offence, or at any time after, in as large and ample manner, as if this clause of this act, had not been made.

Attainder not to corrupt blood or forfeit dower of wife.

VII. *And be it further enacted by the authority aforesaid,* That no attainder of any person or persons, of or for any manner of treason or felony whatsoever, shall hereafter extend to corrupt the blood of the offender, or to forfeit the dower of his wife.

Murder and poisoning, indict-

VIII. *And be it further enacted by the authority aforesaid,* That where any person hereafter shall be feloniously stricken or poisoned in one

mislead, or shall actually mislead the public, so as the effect described cannot be produced by the means specified, then, and in such cases, the verdict and judgment shall be for the defendant.

Patent fees.

Sec. 7. *And be it further enacted*, That such patentee as aforesaid, shall, before he receives his patent, pay the following fees to the several officers employed in making out and perfecting the same, to wit: For receiving and filing the petition, fifty cents; for filing specifications, per copy-sheet containing one hundred words, ten cents; for making out patent, two dollars; for affixing great seal, one dollar; for indorsing the day of delivering the same to the patentee, including all intermediate services, twenty cents.

APPROVED, April 10, 1790.

STATUTE II.

April 15, 1790.

CHAP. VIII.—*An Act further to suspend part of an act intituled "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares and merchandises imported into the United States," and to amend the said act.*

Repealed. Act of Aug. 4, 1790, chap. 35, sec. 74.

Restriction by a former act, on vessels bound up the Potomac, suspended until first May, 1791. Act of July 31, 1789, ch. 6.

Additional ports of delivery in Connecticut.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so much of an act, intituled, "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares and merchandises imported into the United States," as obliges ships or vessels bound up the river Potomac to come to, and deposit manifests of their cargoes with the officers at Saint Mary's and Yeocomico, before they proceed to their port of delivery, shall be and is hereby further suspended, from the first day of May next, to the first of May in the year one thousand seven hundred and ninety-one.

Sec. 2. *And be it further enacted, by the authority aforesaid*, That the landing places in Windsor and East Windsor, in the State of Connecticut, shall be ports of delivery, and be included in the district of New London.

APPROVED, April 15, 1790.

STATUTES II.

April 30, 1790.

CHAP. IX.—*An Act for the Punishment of certain Crimes against the United States.*

Act of April 3, 1792, ch. 16, sec. 19. Act of May 27, 1798, ch. 36, sec. 7. Jan. 30, 1799, ch. 1. Act of April 24, 1800, ch. 35. Act of March 26, 1804, ch. 40. Act of March 3, 1825, ch. 65. What cases shall be adjudged treason. How proved and punished. Misprision of treason.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person or persons, owing allegiance to the United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall be thereof convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death.(a)

Sec. 2. *And be it [further] enacted*, That if any person or persons, having knowledge of the commission of any of the treasons aforesaid, shall conceal and not as soon as may be disclose and make known the same to the President of the United States, or some one of the judges thereof, or to the president or governor of a particular State, or some one of the judges or justices thereof, such person or persons on conviction shall be adjudged guilty of misprision of treason, and shall be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

(a) *Treason*.—To constitute a levying of war, there must be an assemblage of persons for the purpose of effecting by force, a treasonable purpose. *Ex parte Bollman and Swartwout*, 4 Cranch, 75; 2 Cond. Rep. 33. *The United States v. Vigol*, 2 Dall. 346. *The United States v. Vilatto*, 2 Dall. 370. *The United States v. The Insurgents of Pennsylvania*, 2 Dall. 385. *The United States v. Mitchell*, 2 Dall. 349. *The United States v. Stuart*, 2 Dall. 343; 1 Burr's Trial, 14; 2 Burr's Trial, 401.

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SEC. 3. *And be it [further] enacted*, That if any person or persons shall, within any fort, arsenal, dock-yard, magazine, or in any other place or district of country, under the sole and exclusive jurisdiction of the United States, commit the crime of wilful murder, such person or persons on being thereof convicted shall suffer death. (a)

Murder in a fort or arsenal, under the exclusive jurisdiction of the U. S. to be punished with death.

SEC. 4. *And be it also enacted*, That the court before whom any person shall be convicted of the crime of murder, for which he or she shall be sentenced to suffer death, may at their discretion, add to the judgment, that the body of such offender shall be delivered to a surgeon for dissection; and the marshal who is to cause such sentence to be executed, shall accordingly deliver the body of such offender, after execution done, to such surgeon as the court shall direct, for the purpose aforesaid: *Provided*, That such surgeon, or some other person by him appointed for the purpose, shall attend to receive and take away the dead body at the time of the execution of such offender.

Act of March 3, 1825, ch. 65, sec. 4. and court may order offender's body to be dissected.

SEC. 5. *And be it further enacted*, That if any person or persons shall, after such execution had, by force rescue or attempt to rescue the body of such offender out of the custody of the marshal or his officers, during the conveyance of such body to any place for dissection as aforesaid; or shall by force rescue or attempt to rescue such body from the house of any surgeon, where the same shall have been deposited in pursuance of this act; every person so offending, shall be liable to a fine not exceeding one hundred dollars, and an imprisonment not exceeding twelve months.

Rescue of a body ordered for dissection, punishment for.

SEC. 6. *And be it [further] enacted*, That if any person or persons having knowledge of the actual commission of the crime of wilful murder or other felony, upon the high seas, or within any fort, arsenal, dock-yard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States, shall conceal, and not as soon as may be disclose and make known the same to some one of the judges or other persons in civil or military authority under the United States, on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony, and shall be imprisoned not exceeding three years, and fined not exceeding five hundred dollars.

Misprision of felony, what cases shall be judged, and how punished.

SEC. 7. *And be it [further] enacted*, That if any person or persons shall within any fort, arsenal, dock-yard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States, commit the crime of manslaughter, and shall be thereof convicted, such person or persons shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars.

Manslaughter in a fort, arsenal, &c. how punished. Act of March 3, 1825, ch. 65, sec. 4, 6, 7.

SEC. 8. *And be it [further] enacted*, That if any person or persons shall commit upon the high seas, or in any river, haven, basin or bay, out of the jurisdiction of any particular state, murder or robbery, or any other offence which if committed within the body of a county, would by the

Piracy and felony, what cases shall be judged, where

(a) *Murder*.—Congress have not in the 8th section of the act of April 30, 1790, for the prevention of certain crimes against the United States, exercised the power, if any such is given by the constitution of the United States, of conferring jurisdiction on the courts of the United States of a murder committed on the waters of a State where the tide ebbs and flows. *United States v. Bevens*, 3 Wheat. 336; 4 Cond. Rep. 275.

The 3d article of the constitution of the United States, which declares that "the judicial power of the United States shall extend to all cases of admiralty and maritime jurisdiction," vests in the United States exclusive jurisdiction of all such cases; and a murder committed on the waters of a State where the tide ebbs and flows, is a case of admiralty and maritime jurisdiction. *Ibid.*

The courts of the United States have jurisdiction of a murder committed on the high seas from a vessel belonging to the United States, by a foreigner being on board of such vessel, upon another foreigner being on board of another vessel. 5 Wheat. 184; 4 Cond. Rep. 623.

The courts of the United States have jurisdiction, under the act of April 30, 1790, of a murder committed on the high seas, although not committed on board of a vessel of the United States, as if she had no national character, but was held by pirates or persons not sailing under the flag of any foreign nation. *The United States v. Holmes et al.*, 5 Wheat. 412; 4 Cond. Rep. 708. See also *United States v. Magill*, 1 Wash. C. C. R. 463. *United States v. Drew*, 5 Mason's C. C. R. 28. *United States v. Freeman*, 4 Mason's C. C. R. 505. *United States v. Ross*, 1 Gallis. C. C. R. 624. *Dexter v. Spear*, 4 Mason's C. C. R. 115. *The United States v. Cornell*, 2 Mason's C. C. R. 91.

tried and how
punished.
Act of May
15, 1820, ch. 113.

laws of the United States be punishable with death; or if any captain or mariner of any ship or other vessel, shall piratically and feloniously run away with such ship or vessel, or any goods or merchandise to the value of fifty dollars, or yield up such ship or vessel voluntarily to any pirate; or if any seaman shall lay violent hands upon his commander, thereby to hinder and prevent his fighting in defence of his ship or goods committed to his trust, or shall make a revolt in the ship; every such offender shall be deemed, taken and adjudged to be a pirate and felon, and being thereof convicted, shall suffer death; and the trial of crimes committed on the high seas, or in any place out of the jurisdiction of any particular state, shall be in the district where the offender is apprehended, or into which he may first be brought. (a)

SEC. 9. *And be it [further] enacted*, That if any citizen shall commit any piracy or robbery aforesaid, or any act of hostility against the United States, or any citizen thereof, upon the high sea, under colour of any commission from any foreign prince, or state, or on pretence of authority from any person, such offender shall, notwithstanding the pretence of any such authority, be deemed, adjudged and taken to be a pirate, felon, and robber, and on being thereof convicted shall suffer death.

Accessories
therein, how
punished.

SEC. 10. *And be it [further] enacted*, That every person who shall, either upon the land or the seas, knowingly and wittingly aid and assist, procure, command, counsel or advise any person or persons, to do or commit any murder or robbery, or other piracy aforesaid, upon the seas, which shall affect the life of such person, and such person or persons shall thereupon do or commit any such piracy or robbery, then all and every such person so as aforesaid aiding, assisting, procuring, commanding, counselling or advising the same, either upon the land or the sea, shall be, and they are hereby declared, deemed and adjudged to be accessory to such piracies before the fact, and every such person being thereof convicted shall suffer death.

Concealing a
pirate or prop-
erty taken by a
pirate.

SEC. 11. *And be it [further] enacted*, That after any murder, felony, robbery, or other piracy whatsoever aforesaid, is or shall be committed by any pirate or robber, every person who knowing that such pirate or robber has done or committed any such piracy or robbery, shall on the land or at sea receive, entertain or conceal any such pirate or robber, or receive or take into his custody any ship, vessel, goods or chattels, which have been by any such pirate or robber piratically and feloniously taken, shall be, and are hereby declared, deemed and adjudged to be accessory to such piracy or robbery, after the fact; and on conviction thereof, shall be imprisoned not exceeding three years, and fined not exceeding five hundred dollars.

(a) A robbery committed on the high seas, although such robbery, if committed on land, would not, by the laws of the United States, be punishable with death, is piracy, under the 8th section of the law of the United States; and the Circuit Courts have jurisdiction thereof. *United States v. Palmer*, 3 Wheat. 610; 4 Cond. Rep. 352.

The crime of robbery as mentioned in the act, is the crime of robbery as recognized at common law. *Ibid.* See also *United States v. Klinton*, 5 Wheat. 144; 4 Cond. Rep. 614. *The United States v. Smith*, 5 Wheat. 153; 4 Cond. Rep. 619. *United States v. Furlong et al.*, 5 Wheat. 184; 4 Cond. Rep. 623. *United States v. Holmes*, 5 Wheat. 412; 4 Cond. Rep. 708.

Pirates may be lawfully captured by the public or private ships of any nation, in peace or war, for they are *hostes humani generis*. *The Marianna Flora*, 11 Wheat. 1; 6 Cond. Rep. 201. See also *The Josefa Segunda*, 5 Wheat. 338; 4 Cond. Rep. 672. *The Palmyra*, 12 Wheat. 1; 6 Cond. Rep. 397. *The Bello Corrunnes*, 6 Wheat. 152; 6 Cond. Rep. 45.

To constitute the offence of piracy within the act of 1790, "by piratically and feloniously running away with a vessel," personal force and violence are not necessary. 1 *Gallie's C. C. R.* 247. See also *The United States v. Ross*, 1 *Gallie's C. C. R.* 624. *United States v. Kessler*, 1 *Baldwin's C. C. R.* 15. *United States v. Gibert*, 2 *Sumner's C. C. R.* 19.

In the act of April 30, 1790, the description of places contained in the 8th section, within which the offences therein enumerated must be committed, in order to give the courts of the United States jurisdiction over them, cannot be transferred to the 12th section, so as to give those courts jurisdiction over a manslaughter committed in a port of a foreign country, and not on the high seas. *The Hoppet v. The United States*, 7 Cranch, 339; 2 Cond. Rep. 542. See *United States v. Willberger*, 5 Wheat. 70; 4 Cond. Rep. 593.

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SEC. 12. *And be it [further] enacted,* That if any seaman or other person shall commit manslaughter upon the high seas, or confederate, or attempt or endeavour to corrupt any commander, master, officer or mariner, to yield up or to run away with any ship or vessel, or with any goods, wares, or merchandise, or to turn pirate, or to go over to or confederate with pirates, or in any wise trade with any pirate knowing him to be such, or shall furnish such pirate with any ammunition, stores or provisions of any kind, or shall fit out any vessel knowingly and with a design to trade with or supply or correspond with any pirate or robber upon the seas; or if any person or persons shall any ways consult, combine, confederate or correspond with any pirate or robber on the seas, knowing him to be guilty of any such piracy or robbery; or if any seaman shall confine the master of any ship or other vessel, or endeavour to make a revolt in such ship; (a) such person or persons so offending, and being thereof convicted, shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars.

Confederacy to become pirates, how punished.

Act of March 3, 1825, ch. 65, sec. 6, sec. 22.

SEC. 13. *And be it [further] enacted,* That if any person or persons, within any of the places upon the land under the sole and exclusive jurisdiction of the United States, or upon the high seas, in any vessel belonging to the United States, or to any citizen or citizens thereof, on purpose and of malice aforethought, shall unlawfully cut off the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or a lip, or cut off or disable any limb or member of any person, with intention in so doing to maim or disfigure such person in any the manners before mentioned, then and in every such case the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offence aforesaid) shall on conviction, be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

Maiming, what cases shall be judged, and how punished.

Act of March 3, 1825, ch. 65, sec. 22.

SEC. 14. *And be it [further] enacted,* That if any person or persons shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any certificate, indent, or other public security of the United States, or shall utter, put off, or offer, or cause to be uttered, put off, or offered in payment or for sale any such false, forged, altered or counterfeited certificate, indent or other public security, with intention to defraud any person, knowing the same to be false, altered, forged or counterfeited, and shall be thereof convicted, every such person shall suffer death. (b)

Forgery, what cases shall be judged, and how punished.

Act of March 3, 1825, ch. 65, sec. 17, 18, 19, 20, act of March 3, 1823, ch. 36.

SEC. 15. *And be it [further] enacted,* That if any person shall feloniously steal, take away, alter, falsify, or otherwise avoid any record, writ, process, or other proceedings in any of the courts of the United States, by means whereof any judgment shall be reversed, made void, or not take effect, or if any person shall acknowledge or procure to be acknowledged in any of the courts aforesaid, any recognizance, bail or judgment, in the name or names of any other person or persons not privy or consenting to the same, every such person or persons on conviction thereof, shall be fined not exceeding five thousand dollars, or be impris-

Stealing or falsifying any record, process, &c. how punished.

(a) Although the crimes act of 1790, sec. 12, does not define the offence of endeavouring to make a revolt, it is competent for the court to give a judicial definition of it. *United States v. Kelley*, 11 Wheat. 417; 6 Cond. Rep. 370.

A revolt, is the usurpation of the authority and command of the ship, and an overthrow of that of the master, or commanding officer. Any conspiracy to accomplish such an object, or to resist a lawful command of the master for such purpose; any endeavour to stir up others of the crew to such resistance, is an endeavour to make a revolt, within the meaning of the 12th section of the act of 1790. *United States v. Hemmer et al.*, 4 Mason's C. C. R. 105. See also *United States v. Keefe*, 3 Mason's C. C. R. 475; 5 Mason's C. C. R. 460. *United States v. Smith*, 1 Mason's C. C. R. 147. *United States v. Hamilton*, 1 Mason's C. C. R. 443. *United States v. Kelley*, 4 Wash. C. C. R. 528.

(b) See *United States v. Turner*, 7 Peters, 132. *United States v. Brewster*, 7 Peters, 164. *United States v. Stewart*, 4 Wash. C. C. R. 226. *United States v. Reuben Moses*, 4 Wash. C. C. R. 726. *United States v. Morrow*, 4 Wash. C. C. R. 733. *United States v. Britton*, 2 Mason's C. C. R. 464. *United States v. Minman*, 1 Baldwin's C. C. R. 292. *United States v. Mitchell*, 1 Baldwin's C. C. R. 366.